

# **ATTACHMENT 38**

HIGHLY CONFIDENTIAL

Manion, Scott Martin

April 2, 2014

1

UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

IN RE: PROCESSED EGG PRODUCTS )  
ANTITRUST LITIGATION )  
 ) MDL No. 2002  
 ) 08-md-02002  
 ) HIGHLY  
THIS DOCUMENT RELATES TO: ) CONFIDENTIAL  
Kraft Foods Global, Inc., et al., )  
v. United Egg Producers, Inc., )  
et al., No. 2:12-cv-00088-GP )

The highly confidential videotaped  
discovery deposition of KRAFT FOODS GLOBAL, INC.,  
by and through Scott Martin Manion, taken in the  
above-entitled cause, before Deralyn Gordon, a  
notary public of Cook County, Illinois, on the  
2nd day of April, 2014, at 353 North Clark Street,  
Chicago, Illinois, beginning at approximately  
9:01 a.m., pursuant to Notice.

REPORTED BY: DERALYN GORDON, CSR, RPR, CRR  
LICENSE NO: 084-003957

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| <p style="text-align: right;">2</p> <p>1 PRESENT:</p> <p>2</p> <p>3 JENNER &amp; BLOCK LLP</p> <p>4 BY RICHARD CAMPBELL, ESQ., and</p> <p>5 SARAH S. ANSARI, ESQ.,</p> <p>6 353 North Clark Street</p> <p>7 Chicago, Illinois 60654</p> <p>8 (312) 222-9350</p> <p>9 campbell@jenner.com</p> <p>10 sansari@jenner.com</p> <p>11 appeared on behalf of Kraft Foods</p> <p>12 Global, Inc.;</p> <p>13</p> <p>14 CROWELL MORING</p> <p>15 BY KATHLEEN M. CLAIR, ESQ.,</p> <p>16 1001 Pennsylvania Avenue, NW</p> <p>17 Washington, DC 20004</p> <p>18 (202) 624-2951</p> <p>19 kclair@crowell.com</p> <p>20 appeared on behalf of</p> <p>21 Daybreak Foods, Inc.;</p> <p>22</p> <p>23 ALSO PRESENT:</p> <p>24 Mr. Stephan Hoog, Videographer.</p> <p>25</p> | <p style="text-align: right;">4</p> <p>1 INDEX</p> <p>2 VOLUME I</p> <p>3</p> <p>4 Wednesday, April 2, 2014</p> <p>5</p> <p>6 WITNESS EXAMINATION</p> <p>7 KRAFT FOODS GLOBAL, INC.,</p> <p>8 by and through Scott Martin Manion</p> <p>9 By Ms. Clair 9</p> <p>10 By Mr. Monica 172</p> <p>11 By Mr. Campbell 182</p> <p>12</p> <p>13</p> <p>14</p> <p>15</p> <p>16 DEPOSITION EXHIBITS</p> <p>17 KRAFT FOODS GLOBAL, INC.,</p> <p>18 by and through Scott Martin Manion</p> <p>19</p> <p>20 NUMBER DESCRIPTION IDENTIFIED</p> <p>21 Exhibit 1 Defendants' Second Amended Notice 13</p> <p>of Deposition to Plaintiff</p> <p>22 Kraft Foods Global, Inc., Pursuant</p> <p>to Fed. R. Civ. P. 30(b)(6)</p> <p>23</p> <p>24</p> <p>25</p>  |
| <p style="text-align: right;">3</p> <p>1 PRESENT TELEPHONICALLY:</p> <p>2</p> <p>3 PORTER WRIGHT MORRIS &amp; ARTHUR, LLP</p> <p>4 BY JOHN MONICA, ESQ.,</p> <p>5 1919 Pennsylvania Avenue, NW, Suite 500</p> <p>6 Washington DC 20069</p> <p>7 (202) 778-3000</p> <p>8 jmonica@porterwright.com</p> <p>9 appeared on behalf of Rose Acre</p> <p>10 Farms;</p> <p>11</p> <p>12 STINSON LEONARD STREET LLP</p> <p>13 BY SHARON R. MARKOWITZ, ESQ.,</p> <p>14 150 South Fifth Street, Suite 2300</p> <p>15 Minneapolis, Minnesota 55402</p> <p>16 (612) 335-1974</p> <p>17 sharon.markowitz@stinsonleonard.com</p> <p>18 appeared on behalf of Michael Foods.</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p>                    | <p style="text-align: right;">5</p> <p>1 DEPOSITION EXHIBITS</p> <p>2 KRAFT FOODS GLOBAL, INC.,</p> <p>3 by and through Scott Martin Manion</p> <p>4</p> <p>5 NUMBER DESCRIPTION IDENTIFIED</p> <p>6 Exhibit 2 Second Amended Complaint 16</p> <p>No Bates numbers</p> <p>7</p> <p>8 Exhibit 3 Email regarding Risk Management 19</p> <p>Strategy</p> <p>Bates KRA00002859 - KRA00002872</p> <p>9</p> <p>10 Exhibit 4 Kraft Foods Global, Inc.'s 28</p> <p>Objections and Amended Answers</p> <p>to Defendant's First Set of</p> <p>11 Interrogatories</p> <p>No Bates numbers</p> <p>12</p> <p>13 Exhibit 5 Vendor/supplying plant chart 37</p> <p>No Bates numbers</p> <p>14 Exhibit 6 Vendor/supplying plant chart 52</p> <p>No Bates numbers</p> <p>15</p> <p>16 Exhibit 7 PO's for Archiving written 2003 54</p> <p>Bates KRA00037654 - KRA00037667</p> <p>17 Exhibit 8 Kraft Foods, Inc. 59</p> <p>Contract Report</p> <p>Bates KRA00037478 - KRA00037485</p> <p>18 Exhibit 9 Listing of Kraft manufacturing 64</p> <p>plants</p> <p>No Bates numbers</p> <p>20 Exhibit 10 Email from Jose Rojo to 66</p> <p>Rick Marrese dated 4/14/08</p> <p>Bates KRA00053784 - KRA00053785</p> <p>22 Exhibit 11 Egg Products Supply Agreement 75</p> <p>Bates KRA00046260 - KRA00046315</p> <p>24</p> <p>25</p> |

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| <p style="text-align: right;">6</p> <p>1 DEPOSITION EXHIBITS<br/>2 KRAFT FOODS GLOBAL, INC.,<br/>3 by and through Scott Martin Manion<br/>4<br/>5 NUMBER DESCRIPTION IDENTIFIED<br/>6 Exhibit 12 Egg Products Supply Agreement 87<br/>Bates KRA00048928<br/>7<br/>8 Exhibit 13 Commitment Letter 91<br/>Kraft US Eggs 2007 dated 6/18/07<br/>Bates KRA00045809 - KRA00045810<br/>9<br/>10 Exhibit 14 Meat, Poultry and Other Animal 93<br/>Ingredients Product Purchase<br/>Agreement dated 7/1/07<br/>Bates KRA00002537 - KRA00002554<br/>11 Exhibit 15 Contract Term Extension 97<br/>Bates KRA00046488 - KRA00046509<br/>12<br/>13 Exhibit 16 Email from Rick Marrese to 99<br/>Alec Reusche dated 3/23/08<br/>Bates KRA00053509 - KRA00053512<br/>14<br/>15 Exhibit 17 Email from Michael Kuntz to 122<br/>Randy Hanneman dated 2/25/04<br/>Bates KRA00006025<br/>16<br/>17 Exhibit 18 Kraft Foods Global, Inc.'s 129<br/>Objections and Answers to<br/>Defendants' Second Set of<br/>Interrogatories<br/>No Bates numbers<br/>18<br/>19 Exhibit 19 Draft Animal Welfare Policy and 133<br/>Program Recommendation<br/>April 2006<br/>Bates KRA00000019 - KRA00000039<br/>20 Exhibit 20 Email from John Topinka to 141<br/>Javier Meneses dated 8/30/06<br/>Bates KRA00003479<br/>21<br/>22<br/>23<br/>24<br/>25</p> | <p style="text-align: right;">8</p> <p>1 THE VIDEOGRAPHER: This is Stephan Hoog<br/>2 representing Henderson Legal Services. I'm the<br/>3 operator of this camera.<br/>4 This is the videotaped 30(b)(6) deposition<br/>5 of Scott Manion. We are at -- on the record<br/>6 April 2, 2014. The time is 9:01 a.m., as<br/>7 indicated on the video screen.<br/>8 We are at 353 North Clark Street,<br/>9 Chicago, Illinois. This case is captioned<br/>10 In Re: Processed Egg Products Antitrust<br/>11 Litigation, case number 08-md-02002.<br/>12 Will the attorneys please identify<br/>13 themselves for the video record.<br/>14 MR. CAMPBELL: Richard Campbell of<br/>15 Jenner &amp; Block on behalf of Kraft Foods and the<br/>16 deponent, Scott Manion.<br/>17 MS. ANSARI: Sarah Ansari of<br/>18 Jenner &amp; Block on behalf of Kraft Foods.<br/>19 MS. CLAIRE: Kathleen Clair of<br/>20 Crowell &amp; Moring on behalf of Daybreak Foods, Inc.<br/>21 THE VIDEOGRAPHER: The court reporter<br/>22 today is Deralyn Gordon. Can you please swear in<br/>23 the witness.<br/>24<br/>25</p> |
| <p style="text-align: right;">7</p> <p>1 DEPOSITION EXHIBITS<br/>2 KRAFT FOODS GLOBAL, INC.,<br/>3 by and through Scott Martin Manion<br/>4<br/>5 NUMBER DESCRIPTION IDENTIFIED<br/>6 Exhibit 21 Email from Curtis Amundson to 145<br/>Greg Choate dated 10/30/06<br/>Bates KRA00016957<br/>7 Exhibit 22 Letter from Matthew Prescott to 146<br/>Nick Meriggioli dated 2/16/06<br/>Bates KRA00042468 - KRA00042470<br/>8 Exhibit 23 Letter from Katie Carrus to 150<br/>Chris Beard dated 4/20/06<br/>Bates KRA00052823 - KRA00052823<br/>9 Exhibit 24 Email from Greg Hite to 153<br/>Cathy Pernu dated 5/21/07<br/>Bates KRA00000342 - KRA00000343<br/>10 Exhibit 25 Kraft Industry Facts &amp; Discussion 157<br/>Points<br/>Bates KRA00046529 - KRA00046530<br/>11 Exhibit 26 Email from John Gregorich to 160<br/>Susan Cruse dated 4/15/08<br/>Bates KRA00006162 - KRA00006165<br/>12 Exhibit 27 Email from John Gregorich to 165<br/>Jose Rojo dated 6/8/07<br/>Bates KRA00026656 - KRA00026663<br/>13<br/>14<br/>15<br/>16<br/>17<br/>18<br/>19<br/>20<br/>21<br/>22<br/>23<br/>24<br/>25</p>  | <p style="text-align: right;">9</p> <p>1 (Whereupon the witness was<br/>2 sworn.)<br/>3 KRAFT FOODS GLOBAL, INC.,<br/>4 by and through Scott Martin Manion,<br/>5 called as a witness herein, having been first duly<br/>6 sworn, was examined and testified as follows:<br/>7 EXAMINATION<br/>8 BY MS. CLAIRE:<br/>9 Q. Good morning, Mr. Manion.<br/>10 A. Good morning.<br/>11 Q. Have you ever been deposed before?<br/>12 A. No, I have not.<br/>13 Q. Okay. So we can go over just a couple of<br/>14 ground rules for it.<br/>15 You're testifying today under oath.<br/>16 The court reporter and videographer are making<br/>17 a record that you understand may in some<br/>18 circumstances be used at trial.<br/>19 For everyone's benefit it's best if we<br/>20 try not to talk over one another; I'll try that as<br/>21 well. And it's best to respond verbally rather<br/>22 than nodding or uh-huhs so the court reporter can<br/>23 get it all down.<br/>24 If you don't understand a question, just<br/>25 let me know --</p>  |

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| <p style="text-align: right;">10</p> <p>1 MS. MARKOWITZ: I apologize. I don't want<br/>2 to interrupt, but my name is Sharon Markowitz.<br/>3 I'm appearing for Michael Foods on the phone.<br/>4 MS. CLAIR: Okay.<br/>5 MS. MARKOWITZ: So I'm not sure if you<br/>6 began.<br/>7 MR. CAMPBELL: Who is it, please?<br/>8 MS. MARKOWITZ: Sharon Markowitz. Sorry.<br/>9 I should have spoken up sooner.<br/>10 MR. CAMPBELL: Did you get that, Stephan?<br/>11 THE VIDEOGRAPHER: Yes.<br/>12 MR. CAMPBELL: All right. Thanks.<br/>13 Can you hear us all right?<br/>14 MS. MARKOWITZ: So far.<br/>15 MS. CLAIR: Great. Yeah, let us know if<br/>16 not.<br/>17 BY MS. CLAIR:<br/>18 Q. So if you don't understand the question,<br/>19 just let me know; I'll clarify.<br/>20 If you ever need to take a break, just say<br/>21 so.<br/>22 <b>A. Okay.</b><br/>23 Q. No big deal.<br/>24 Do you understand that you're testifying<br/>25 today on behalf of Kraft as a corporate</p>   | <p style="text-align: right;">12</p> <p>1 <b>A. From 200- -- roughly 2006 until 2012.</b><br/>2 Q. Okay. And what did you do before 2006?<br/>3 <b>A. I worked in another category as category</b><br/>4 <b>manager for Kraft.</b><br/>5 Q. Okay.<br/>6 <b>A. Mostly indirect, indirect materials</b><br/>7 <b>purchases, services purchasing, marketing services</b><br/>8 <b>purchasing.</b><br/>9 Q. And --<br/>10 <b>A. Nonfood basically.</b><br/>11 Q. Nonfood?<br/>12 <b>A. Yes.</b><br/>13 Q. Nothing to do with eggs in that position?<br/>14 <b>A. Correct.</b><br/>15 Q. And in the position from 2006 to 2012,<br/>16 were eggs part of your responsibility?<br/>17 <b>A. Eggs were part of my responsibility</b><br/>18 <b>between 2008 and 2010.</b><br/>19 Q. Perfect.<br/>20 And at any time prior going back to 1999,<br/>21 did you have responsibility having to do with<br/>22 eggs or egg purchasing?<br/>23 <b>A. No, I did not.</b><br/>24 Q. Okay. What's the highest level of<br/>25 education that you -- highest degree you got?</p>   |
| <p style="text-align: right;">11</p> <p>1 representative?<br/>2 <b>A. Yes, I do.</b><br/>3 Q. And is there any reason why you can't give<br/>4 your best testimony today?<br/>5 <b>A. No, there's no reason.</b><br/>6 Q. What is your job title?<br/>7 <b>A. Associate Director Dairy Ingredients</b><br/>8 <b>Procurement.</b><br/>9 Q. What are your responsibilities in that<br/>10 position?<br/>11 <b>A. I'm responsible for purchasing and</b><br/>12 <b>managing categories within the dairy ingredients</b><br/>13 <b>group.</b><br/>14 Q. And when did you start this position?<br/>15 <b>A. I started this position two years ago.</b><br/>16 Q. And before that what was your job title?<br/>17 <b>A. It was Senior Manager for Ingredients</b><br/>18 <b>Procurement.</b><br/>19 Q. Were your responsibilities different in<br/>20 that position?<br/>21 <b>A. They were different categories, same basic</b><br/>22 <b>responsibilities, responsible for purchasing and</b><br/>23 <b>contracting within the category.</b><br/>24 Q. Okay. And how long were you in that<br/>25 position?</p> | <p style="text-align: right;">13</p> <p>1 <b>A. A bachelor of science degree.</b><br/>2 Q. Okay. So without revealing any<br/>3 confidential communications with your counsel,<br/>4 what is your understanding of the allegations<br/>5 that Kraft is making in this lawsuit?<br/>6 MR. CAMPBELL: I object for the record<br/>7 on the ground that any knowledge he has about the<br/>8 basis of the lawsuit, which he gained from<br/>9 counsel, either in-house or at Jenner &amp; Block,<br/>10 is privileged.<br/>11 So I instruct him not to answer except to<br/>12 the extent that he has knowledge outside that --<br/>13 the knowledge he has gained from us.<br/>14 MS. CLAIR: Perfect.<br/>15 BY MS. CLAIR:<br/>16 Q. So if you can answer.<br/>17 <b>A. As I understand it, it's a reduction of</b><br/>18 <b>supply of eggs and an increase in the price of</b><br/>19 <b>eggs.</b><br/>20 Q. Okay. I'm going to hand you what we'll<br/>21 mark as Exhibit 1, please.<br/>22 (Discussion held off the<br/>23 record.)<br/>24 (Manion Deposition Exhibit No. 1<br/>25 marked for identification.)</p> |

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| <p style="text-align: right;">14</p> <p>1 BY MS. CLAIR:</p> <p>2 Q. Mr. Manion, have you seen this document</p> <p>3 before?</p> <p>4 <b>A. I may have seen this document before.</b></p> <p>5 Q. If you look at -- this might help. If</p> <p>6 you turn to page 8, you'll see the beginning of a</p> <p>7 list of deposition topics.</p> <p>8 Have you seen this list or a list like</p> <p>9 this before?</p> <p>10 <b>A. Yes. Yup.</b></p> <p>11 Q. Did you review this with -- in preparation</p> <p>12 for your deposition?</p> <p>13 <b>A. Yes, I did.</b></p> <p>14 Q. And there's been one general exception.</p> <p>15 I'm not going to be asking about downstream</p> <p>16 pricing data; other than that are you prepared to</p> <p>17 testify about the topics in this notice?</p> <p>18 <b>A. Yes, I am.</b></p> <p>19 MR. CAMPBELL: He's prepared to testify as</p> <p>20 to those topics to which we have not objected.</p> <p>21 We offered when we responded to this</p> <p>22 30(b)(6) notice to meet and confer with counsel or</p> <p>23 defendants; defendants never took us up on that.</p> <p>24 There's been no meet and confer, so we stand by</p> <p>25 our objections.</p> | <p style="text-align: right;">16</p> <p>1 your deposition today?</p> <p>2 <b>A. I reviewed documents of when I managed</b></p> <p>3 <b>the category, I consulted with Richard in the</b></p> <p>4 <b>legal group, and I spoke with people that managed</b></p> <p>5 <b>the category previous to me.</b></p> <p>6 Q. And who were those people?</p> <p>7 <b>A. Javier Maneses, who managed the category</b></p> <p>8 <b>from 2004 to 2006.</b></p> <p>9 Q. Anybody else at Kraft?</p> <p>10 <b>A. Some folks in corporate affairs,</b></p> <p>11 <b>Sarah DeLay and Naya "Moon."</b></p> <p>12 Q. Okay. You mentioned that you reviewed</p> <p>13 some documents; were those documents that you</p> <p>14 selected?</p> <p>15 <b>A. They were the documents that I had when</b></p> <p>16 <b>I managed the category.</b></p> <p>17 Q. Okay. Did you bring any of those</p> <p>18 documents with you today?</p> <p>19 <b>A. No. No, I didn't.</b></p> <p>20 Q. I'm going to hand you what we'll mark as</p> <p>21 Exhibit 2.</p> <p>22 (Manion Deposition Exhibit No. 2</p> <p>23 marked for identification.)</p> <p>24 MS. ANSARI: Did someone just join?</p> <p>25 MR. MONICA: Yes. John Monica from</p> |
| <p style="text-align: right;">15</p> <p>1 MS. CLAIR: This might be better off the</p> <p>2 record.</p> <p>3 I understood there was a telephonic meet</p> <p>4 and confer with Jenner &amp; Block counsel in the</p> <p>5 summer?</p> <p>6 Let's go off the record.</p> <p>7 MR. CAMPBELL: Let's go off the record.</p> <p>8 (Discussion held off the</p> <p>9 record.)</p> <p>10 THE VIDEOGRAPHER: We're off the record at</p> <p>11 9:08 a.m.</p> <p>12 (Discussion held off the</p> <p>13 record.)</p> <p>14 THE VIDEOGRAPHER: Back on the record at</p> <p>15 9:08 a.m.</p> <p>16 MR. CAMPBELL: Ms. Clair is correct and</p> <p>17 I was wrong. I am told that there was a meet and</p> <p>18 confer not unique to Kraft. It covered Kellogg,</p> <p>19 General Mills and Kraft, I think, although I don't</p> <p>20 think much was resolved at that meet and confer.</p> <p>21 So we'll take it step by step on the</p> <p>22 questions. All right?</p> <p>23 MS. CLAIR: That's fair. That's fair.</p> <p>24 BY MS. CLAIR:</p> <p>25 Q. Mr. Manion, what did you do to prepare for</p>   | <p style="text-align: right;">17</p> <p>1 Porter Wright Morris &amp; Arthur representing</p> <p>2 Rose Acre Farms, Inc., a defendant in the action.</p> <p>3 (Discussion held off the</p> <p>4 record.)</p> <p>5 BY MS. CLAIR:</p> <p>6 Q. Mr. Manion, do you recognize this to be a</p> <p>7 copy of the complaint that got filed in this case?</p> <p>8 MR. CAMPBELL: Objection as to form.</p> <p>9 MS. MARKOWITZ: Is there a Bates label on</p> <p>10 this exhibit?</p> <p>11 MS. ANSARI: I'm sorry, what?</p> <p>12 MS. MARKOWITZ: Is there a Bates label on</p> <p>13 this exhibit?</p> <p>14 MS. CLAIR: No, there is not.</p> <p>15 MS. MARKOWITZ: Okay. Thank you.</p> <p>16 <b>A. It appears to be, yes.</b></p> <p>17 BY MS. CLAIR:</p> <p>18 Q. I only have one question about this right</p> <p>19 now, and that's on page 8, page 8, paragraph 14.</p> <p>20 <b>A. Yes.</b></p> <p>21 Q. This is a question about the corporate</p> <p>22 structure. Notice paragraph 14 identifies Kraft</p> <p>23 Foods Global, Inc., Cadbury plc, Kraft Foods,</p> <p>24 Inc., and Kraft Foods North America, Inc., all</p> <p>25 as plaintiffs.</p>   |

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| <p style="text-align: right;">18</p> <p>1 Are you testifying today on behalf of all</p> <p>2 of those entities?</p> <p>3 <b>A. Yes.</b></p> <p>4 Q. Could you explain to me what the</p> <p>5 relationship is among those four entities?</p> <p>6 <b>A. I'm not exactly sure.</b></p> <p>7 Q. Okay. That's fine.</p> <p>8 Just for a bit of background -- and we</p> <p>9 can set this one aside for right now -- about</p> <p>10 Kraft's business, does Kraft purchase any shell</p> <p>11 eggs?</p> <p>12 <b>A. No, we do not.</b></p> <p>13 Q. Does Kraft purchase egg products?</p> <p>14 <b>A. Yes, we do.</b></p> <p>15 Q. So Kraft doesn't sell any shell eggs,</p> <p>16 right?</p> <p>17 <b>A. No. No.</b></p> <p>18 Q. Does Kraft sell any egg products?</p> <p>19 <b>A. No.</b></p> <p>20 Q. How does Kraft use the egg products that</p> <p>21 it buys?</p> <p>22 <b>A. We use eggs in mayonnaise and cookies.</b></p> <p>23 Q. Anything else --</p> <p>24 <b>A. Nope.</b></p> <p>25 Q. -- that you can think of? Okay.</p>   | <p style="text-align: right;">20</p> <p>1 Q. Okay. That's fair enough. And it was an</p> <p>2 attachment to what looks like a meeting invitation</p> <p>3 for a working session; is that right?</p> <p>4 <b>A. That's correct.</b></p> <p>5 Q. Did Kraft hold this type of working</p> <p>6 session periodically?</p> <p>7 <b>A. Yes.</b></p> <p>8 Q. Was it common to attach Power Points like</p> <p>9 this one for people to review in preparation for</p> <p>10 the working session?</p> <p>11 <b>A. Uh-huh. Yes.</b></p> <p>12 Q. Okay. And would the people who prepared</p> <p>13 those Power Points have been knowledgeable about</p> <p>14 the information in them at the time they prepared</p> <p>15 them?</p> <p>16 <b>A. Yes.</b></p> <p>17 Q. Okay. So for now I just want to look at</p> <p>18 one page of this. The page ending in 2862, which</p> <p>19 is the third or fourth page of this document here.</p> <p>20 It says "Executive Summary" at the top.</p> <p>21 <b>A. Yup.</b></p> <p>22 Q. Okay. So the very top mentions that</p> <p>23 "Eggs are a significant raw material to the Kraft</p> <p>24 Grocery BU."</p> <p>25 Is that the Grocery Business Unit?</p> |
| <p style="text-align: right;">19</p> <p>1 (Manion Deposition Exhibit No. 3</p> <p>2 marked for identification.)</p> <p>3 BY MS. CLAIR:</p> <p>4 Q. I'm going to hand you what we'll mark as</p> <p>5 Exhibit 3.</p> <p>6 <b>A. Thank you.</b></p> <p>7 Q. This is a document Bates labeled</p> <p>8 KRA00002859. Take a moment to review it.</p> <p>9 <b>A. Uh-huh.</b></p> <p>10 Q. Do you recognize this document?</p> <p>11 <b>A. I do.</b></p> <p>12 Q. And what is it?</p> <p>13 <b>A. This is a, this is a draft of a strategy</b></p> <p>14 <b>that I was involved in with Kraft.</b></p> <p>15 Q. Okay. I know it says "Draft." I can</p> <p>16 represent to you that based on the search of</p> <p>17 Kraft's production, every copy and version of</p> <p>18 this says "Draft" on the front.</p> <p>19 <b>A. Uh-huh.</b></p> <p>20 Q. Despite it saying "Draft," was this</p> <p>21 document distributed to the group of people listed</p> <p>22 on the very first page of this exhibit?</p> <p>23 <b>A. It's not listed on -- well, yes, it is.</b></p> <p>24 <b>It's listed here as an attachment. My assumption</b></p> <p>25 <b>would be yes.</b></p> | <p style="text-align: right;">21</p> <p>1 <b>A. Grocery Business Unit, yeah.</b></p> <p>2 Q. Okay. I just want to look at the second</p> <p>3 row down. It says "NA Internal Stakeholders."</p> <p>4 <b>A. Yes.</b></p> <p>5 Q. Is "NA" North America?</p> <p>6 <b>A. North America.</b></p> <p>7 Q. Okay. So there are some products</p> <p>8 mentioned here, Mayo, Miracle Whip, Dressings,</p> <p>9 Nilla Wafers, Boca products. Are these some</p> <p>10 examples of products that Kraft makes using</p> <p>11 eggs as an ingredient?</p> <p>12 <b>A. That's correct.</b></p> <p>13 Q. Can you think of any others that</p> <p>14 Kraft makes that uses egg products as an</p> <p>15 ingredient?</p> <p>16 <b>A. No.</b></p> <p>17 Q. Okay. And this discusses the Kraft</p> <p>18 Grocery Business Unit.</p> <p>19 Do any other Kraft Business Units use</p> <p>20 egg products to your knowledge?</p> <p>21 <b>A. The snacks business unit.</b></p> <p>22 Q. Perfect. So snacks is its own business</p> <p>23 unit --</p> <p>24 <b>A. Yes.</b></p> <p>25 Q. -- separate from grocery?</p>   |



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|  |   |
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| <p style="text-align: right;">22</p> <p>1 <b>A. Yes.</b></p> <p>2 Q. And grocery and food service, would that</p> <p>3 be a longer version for the name for that Grocery</p> <p>4 Business Unit?</p> <p>5 <b>A. Correct. Yes.</b></p> <p>6 Q. Perfect. That's helpful.</p> <p>7 So, Mr. Manion, for the various Kraft</p> <p>8 entities that we looked at and mentioned in the</p> <p>9 complaint, is egg product purchasing done</p> <p>10 centrally?</p> <p>11 <b>A. Yes, it is.</b></p> <p>12 Q. And for all of the various business units,</p> <p>13 snacks and grocery, that use egg products, is</p> <p>14 purchasing done centrally --</p> <p>15 <b>A. Yes.</b></p> <p>16 Q. -- as well? Okay.</p> <p>17 What divisions or departments within</p> <p>18 Kraft have responsibility for purchasing egg</p> <p>19 products?</p> <p>20 <b>A. The procurement.</b></p> <p>21 Q. Procurement?</p> <p>22 <b>A. The procurement organization, yeah.</b></p> <p>23 Q. Any others?</p> <p>24 <b>A. No.</b></p> <p>25 Q. Okay. And who in procurement has primary</p>  | <p style="text-align: right;">24</p> <p>1 <b>A. Mike Kuntz is responsible for 2000 to</b></p> <p>2 <b>2004, as I understand.</b></p> <p>3 Q. Do you know who was responsible in 1999,</p> <p>4 by chance?</p> <p>5 <b>A. I don't. It could have been Mike. I'm</b></p> <p>6 <b>not sure. I'm not positive.</b></p> <p>7 Q. That's fine. Okay.</p> <p>8 What is Oscar Mayer's relationship with</p> <p>9 Kraft?</p> <p>10 <b>A. Oscar Mayer is a business unit owned by</b></p> <p>11 <b>Kraft.</b></p> <p>12 Q. Okay. Did Oscar Mayer's meat procurement</p> <p>13 group play any role in egg purchasing over this</p> <p>14 relevant time period?</p> <p>15 <b>A. Yes, they did.</b></p> <p>16 Q. Did they do some of their own purchasing</p> <p>17 of eggs?</p> <p>18 <b>A. They purchased on behalf of the</b></p> <p>19 <b>organization.</b></p> <p>20 Q. Did --</p> <p>21 <b>A. So that's separate. They were responsible</b></p> <p>22 <b>for the category. So within the procurement</b></p> <p>23 <b>organization, the meat procurement organization,</b></p> <p>24 <b>had responsibility for that category.</b></p> <p>25 Q. So within the procurement organization,</p>  |
| <p style="text-align: right;">23</p> <p>1 responsibility for purchasing egg products?</p> <p>2 <b>A. The category manager.</b></p> <p>3 Q. Okay. And that's a position that has</p> <p>4 changed over time throughout this --</p> <p>5 <b>A. Yeah. That's correct.</b></p> <p>6 Q. -- time period?</p> <p>7 <b>A. Yeah.</b></p> <p>8 Q. And, just to be clear, there's a lengthy</p> <p>9 time period in this case. So, in general, if I'm</p> <p>10 asking a question did this happen, I'm talking</p> <p>11 about the period from 1999 to 2008.</p> <p>12 <b>A. Understood.</b></p> <p>13 Q. Unless we say otherwise.</p> <p>14 <b>A. Yup.</b></p> <p>15 Q. I might slip up and use the present tense</p> <p>16 or something, but I'll make it clear if I'm not</p> <p>17 talking about that time period.</p> <p>18 <b>A. Okay.</b></p> <p>19 Q. Okay. So that was Javier Maneses for</p> <p>20 some time who had primary responsibility for</p> <p>21 egg purchasing?</p> <p>22 <b>A. He had responsibility from 2004 to 2006,</b></p> <p>23 <b>as I understand.</b></p> <p>24 Q. Do you know who had that primary</p> <p>25 responsibility for egg purchasing before 2004?</p> | <p style="text-align: right;">25</p> <p>1 the meat procurement organization, which would</p> <p>2 include the Oscar Mayer meat procurement group,</p> <p>3 had responsibility for all of Kraft's egg</p> <p>4 purchasing, is that --</p> <p>5 <b>A. That is correct. Yes, that's correct.</b></p> <p>6 Q. That's helpful. Thank you. Okay.</p> <p>7 And who within the meat procurement group</p> <p>8 at Oscar Mayer, other than the people we</p> <p>9 mentioned already, had primary responsibility for</p> <p>10 egg purchases?</p> <p>11 <b>A. A gentleman by the name John</b></p> <p>12 <b>Gregorich from 2006 to 2008.</b></p> <p>13 Q. Perfect. Thank you.</p> <p>14 What are the types of egg products that</p> <p>15 Kraft purchases?</p> <p>16 <b>A. We purchase liquid whole eggs, liquid egg</b></p> <p>17 <b>yolks, enzyme-modified eggs and powdered eggs.</b></p> <p>18 Q. What are enzyme-modified eggs?</p> <p>19 <b>A. It's just a -- it's a process that the</b></p> <p>20 <b>eggs go through to functionalize them.</b></p> <p>21 Q. Could you explain to me what</p> <p>22 functionalizing an egg means?</p> <p>23 <b>A. Yeah. It actually gives the egg a</b></p> <p>24 <b>property that creates a more fluffy product when</b></p> <p>25 <b>it's added to other products to make a mayonnaise.</b></p> |



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|  |  |
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| <p style="text-align: right;">26</p> <p>1 Q. Is that something that your suppliers do?</p> <p>2 <b>A. Yes.</b></p> <p>3 Q. They functionalize the egg?</p> <p>4 <b>A. Yes.</b></p> <p>5 Q. That's something that Kraft asks them to</p> <p>6 do?</p> <p>7 <b>A. Yes. Yeah.</b></p> <p>8 Q. Okay. Does Kraft buy pasteurized eggs?</p> <p>9 <b>A. I believe so, yes.</b></p> <p>10 Q. Does it buy any unpasteurized?</p> <p>11 <b>A. I don't believe so.</b></p> <p>12 Q. Does Kraft buy any salted egg products?</p> <p>13 <b>A. Yes, there's salt added. The liquids are</b></p> <p>14 <b>a mix, so it's just not whole egg. It's a whole</b></p> <p>15 <b>egg mix to Kraft specifications.</b></p> <p>16 Q. Okay. And what else goes into the mix?</p> <p>17 Salt is one thing. Do you know what else goes</p> <p>18 into that?</p> <p>19 <b>A. I think -- let's see what I can remember</b></p> <p>20 <b>-- salt and additional egg yolk I think goes into</b></p> <p>21 <b>the whole egg mix.</b></p> <p>22 Q. Okay.</p> <p>23 <b>A. There may be other additives, maybe sugar.</b></p> <p>24 <b>I'm not positive. I can't remember back that...</b></p> <p>25 Q. Does Kraft buy only one blend, if we could</p> | <p style="text-align: right;">28</p> <p>1 <b>A. Yes. The dried eggs are used in the</b></p> <p>2 <b>Nilla Wafers.</b></p> <p>3 Q. So the powdered eggs? In other words, the</p> <p>4 powdered?</p> <p>5 <b>A. The powdered eggs would be the equivalent</b></p> <p>6 <b>to dried eggs.</b></p> <p>7 Q. Okay.</p> <p>8 <b>A. Yes.</b></p> <p>9 Q. Any frozen eggs?</p> <p>10 <b>A. No.</b></p> <p>11 Q. No?</p> <p>12 <b>A. Not that I'm aware of.</b></p> <p>13 Q. Okay. Any egg whites? Any liquid whites?</p> <p>14 <b>A. I can't recall. Potentially. I can't</b></p> <p>15 <b>recall, though.</b></p> <p>16 Q. That's okay.</p> <p>17 So just for clarity, unless I'm more</p> <p>18 specific, if I say eggs or egg products, I would</p> <p>19 be speaking collectively about the various kinds</p> <p>20 that Kraft purchases.</p> <p>21 <b>A. Understood.</b></p> <p>22 Q. Okay. Let me hand you what we'll mark as</p> <p>23 Exhibit 4.</p> <p>24 (Manion Deposition Exhibit No. 4</p> <p>25 marked for identification.)</p>   |
| <p style="text-align: right;">27</p> <p>1 call it that, of liquid egg product or does it buy</p> <p>2 different kinds? Are there different --</p> <p>3 <b>A. No, it buys two, basically a whole-egg mix</b></p> <p>4 <b>and an egg-yolk mix.</b></p> <p>5 Q. Okay. And these are specifications that</p> <p>6 Kraft has developed?</p> <p>7 <b>A. Correct.</b></p> <p>8 Q. Okay. So aside from the liquid eggs, you</p> <p>9 mentioned powdered eggs.</p> <p>10 How does Kraft use powdered eggs it buys?</p> <p>11 <b>A. We use powdered eggs in the manufacturing</b></p> <p>12 <b>of cookies, so in I believe it's Nilla Wafers for</b></p> <p>13 <b>our snacks business.</b></p> <p>14 Q. Okay. That brought back childhood</p> <p>15 memories.</p> <p>16 <b>A. Yeah.</b></p> <p>17 Q. And how does Kraft use the eggs that it</p> <p>18 buys?</p> <p>19 <b>A. It uses it in mayonnaise.</b></p> <p>20 Q. Mayonnaise?</p> <p>21 <b>A. Yes.</b></p> <p>22 Q. And you mentioned enzyme-modified eggs;</p> <p>23 how does Kraft use those?</p> <p>24 <b>A. In a form of mayonnaise.</b></p> <p>25 Q. Okay. Does Kraft buy any dried eggs?</p>   | <p style="text-align: right;">29</p> <p>1 <b>A. Are we through with this one for right</b></p> <p>2 <b>now?</b></p> <p>3 BY MS. CLAIR:</p> <p>4 Q. For right now, yeah.</p> <p>5 <b>A. Okay.</b></p> <p>6 Q. We'll come back to it, but later on.</p> <p>7 <b>A. Okay.</b></p> <p>8 Q. So I'm going to ask you some questions</p> <p>9 about some of the data that Kraft produced. No</p> <p>10 one expects you to have memorized all of this.</p> <p>11 I'm just getting a high-level lay of the land</p> <p>12 with these, trying to understand some headings and</p> <p>13 charts --</p> <p>14 <b>A. Understood.</b></p> <p>15 Q. -- and where to look for different</p> <p>16 information.</p> <p>17 So this first document I've handed to you,</p> <p>18 have you seen this before?</p> <p>19 MS. MARKOWITZ: Is there a Bates label?</p> <p>20 MS. CLAIR: There's no Bates label</p> <p>21 on this one. The title is "Kraft Foods Global,</p> <p>22 Inc.'s Objections and Amended Answers to</p> <p>23 Defendants' First Set of Interrogatories."</p> <p>24 MS. MARKOWITZ: Okay. Great. Thanks.</p> <p>25 <b>A. I have not seen this.</b></p> |

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|   |   |
|---|---|
| <p style="text-align: right;">30</p> <p>1 BY MS. CLAIR:</p> <p>2 Q. Okay. Did you assist in preparing Kraft's</p> <p>3 answers to interrogatories in this case?</p> <p>4 <b>A. Yes. I worked with Richard and talked to</b></p> <p>5 <b>Richard about it.</b></p> <p>6 Q. That's fine. I just wanted to turn to</p> <p>7 page 5 here. In that first main paragraph, do</p> <p>8 you see where it says that "...Plaintiff estimated</p> <p>9 its purchases in the Claim Form submitted in</p> <p>10 connection with the Moark class settlement on</p> <p>11 October 5, 2010, attached as Exhibit A"?</p> <p>12 And further on it talks about a different</p> <p>13 document. It talks about transactional data and</p> <p>14 documents the defendants have produced. Do you</p> <p>15 see that?</p> <p>16 <b>A. Yes, I see it.</b></p> <p>17 Q. Okay. So I want to go through those one</p> <p>18 by one.</p> <p>19 But just to understand, to the extent</p> <p>20 that there's any discrepancy between what's in</p> <p>21 Exhibit A here and what's in the transactional</p> <p>22 data, which would be more up to date or more</p> <p>23 accurate, if you know?</p> <p>24 <b>A. I wouldn't know.</b></p> <p>25 Q. That's fine. Do you know if the</p>    | <p style="text-align: right;">32</p> <p>1 see that?</p> <p>2 <b>A. Yes.</b></p> <p>3 Q. Okay. So let's turn to that Appendix B</p> <p>4 to look at the egg product purchases. I apologize</p> <p>5 there's not continuous numbering through this;</p> <p>6 that makes it a little bit difficult to navigate.</p> <p>7 Do you see that?</p> <p>8 <b>A. I -- yes, I'm there.</b></p> <p>9 Q. Okay. Great. So you see the chart called</p> <p>10 "Kraft Foods Total Egg Volume and Revenues by</p> <p>11 Supplier"?</p> <p>12 <b>A. Yes.</b></p> <p>13 Q. Perfect. And it says "Supplier Provided</p> <p>14 Data" on the right; what does that mean?</p> <p>15 <b>A. That we contacted the supplier, and the</b></p> <p>16 <b>supplier provided us the volume and dollars for</b></p> <p>17 <b>that particular year.</b></p> <p>18 Q. Perfect. And on the top right under the</p> <p>19 heading, it says "Aggregate all items to both</p> <p>20 US and Canadian locations" with an asterisk that</p> <p>21 notes this "Chart reflects US purchases only,"</p> <p>22 right?</p> <p>23 <b>A. Yes. I see that.</b></p> <p>24 Q. Did Kraft ask the supplier to take out any</p> <p>25 nonUS purchases or did Kraft do that on its own?</p> |
| <p style="text-align: right;">31</p> <p>1 transactional data completely replaces all of the</p> <p>2 information in Exhibit A?</p> <p>3 <b>A. And I don't know that either.</b></p> <p>4 Q. That's fine. We'll go -- we'll just go</p> <p>5 one by one.</p> <p>6 <b>A. Okay.</b></p> <p>7 Q. Okay. So let's turn to Exhibit A, which</p> <p>8 is in the same document a little further back.</p> <p>9 <b>A. Yes.</b></p> <p>10 Q. Just a couple of pages behind this</p> <p>11 Exhibit A.</p> <p>12 If you flip to what is page 2 of the</p> <p>13 "Claim Form," under "Claimant Name," it says</p> <p>14 "Kraft Foods Global, Inc." and "[Kraft entities</p> <p>15 identified in Appendix A," right?</p> <p>16 <b>A. Yes. I see that.</b></p> <p>17 Q. And if we go a little bit above to</p> <p>18 "Egg Products Subclass," it's describing the</p> <p>19 types of eggs that are identified in this data;</p> <p>20 is that the right way to read that?</p> <p>21 <b>A. Yes. That's how I would understand it.</b></p> <p>22 Q. Okay. And if we flip two pages back on</p> <p>23 page 4 here of the Claim Form, in the middle of</p> <p>24 the page just above the chart it says "Egg Product</p> <p>25 Purchases: See Appendix B (attached.)" Do you</p> | <p style="text-align: right;">33</p> <p>1 <b>A. There's one supplier that supports Canada,</b></p> <p>2 <b>so it was just one supplier's data.</b></p> <p>3 Q. Oh, perfect. So for all of these</p> <p>4 four suppliers listed here, do they supply only</p> <p>5 US locations?</p> <p>6 <b>A. Yes, that is correct.</b></p> <p>7 Q. Okay. That makes it easier.</p> <p>8 <b>A. Yup.</b></p> <p>9 Q. So the -- it looks like there are four</p> <p>10 suppliers listed here. RAF, is that Rose Acre</p> <p>11 Foods?</p> <p>12 <b>A. Rose Acre Foods.</b></p> <p>13 Q. And then Michael Foods?</p> <p>14 <b>A. Yes.</b></p> <p>15 Q. Those are familiar. They're defendants in</p> <p>16 this case.</p> <p>17 <b>A. Yes.</b></p> <p>18 Q. What is Oskaloosa Foods?</p> <p>19 <b>A. Oskaloosa Foods is a small supplier to</b></p> <p>20 <b>Kraft, a very small supplier.</b></p> <p>21 Q. Do they provide you with a different</p> <p>22 type of product than the type that you buy from</p> <p>23 Michaels or Rose Acre?</p> <p>24 <b>A. Yes. They provide a dried egg.</b></p> <p>25 Q. A dried egg?</p>  |

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|   |  |
|---|--|
| <p style="text-align: right;">34</p> <p>1 <b>A. Yes.</b></p> <p>2 Q. Does Oskaloosa sell to Kraft by a</p> <p>3 contract?</p> <p>4 <b>A. A purchase order.</b></p> <p>5 Q. A purchase order. So for each purchase</p> <p>6 there's a separate purchase order; is that right?</p> <p>7 <b>A. There's an annual purchase order that is</b></p> <p>8 <b>done, purchase contract, that the plants can</b></p> <p>9 <b>release against.</b></p> <p>10 Q. Okay. Okay. Is that negotiated every</p> <p>11 year?</p> <p>12 <b>A. Yes.</b></p> <p>13 Q. Okay. And how is pricing done,</p> <p>14 calculated, under that purchase order?</p> <p>15 <b>A. We solicit a -- we request a price from</b></p> <p>16 <b>the supplier, the supplier provides us with a</b></p> <p>17 <b>price, and we use that price on the contract.</b></p> <p>18 Q. Is that a price per pound or something</p> <p>19 else?</p> <p>20 <b>A. It's typically per pound. On dry product</b></p> <p>21 <b>it would be per pound, price per pound.</b></p> <p>22 Q. Is it a fixed price for the duration of</p> <p>23 that year?</p> <p>24 <b>A. Generally, yes, it is.</b></p> <p>25 Q. Does it follow the Urner Barry price</p> | <p style="text-align: right;">36</p> <p>1 <b>A. Yup.</b></p> <p>2 Q. And what is Henningsen Foods?</p> <p>3 <b>A. Henningsen Foods is another small supplier</b></p> <p>4 <b>to Kraft.</b></p> <p>5 Q. What kind of products does Henningsen</p> <p>6 provide you?</p> <p>7 <b>A. I believe powdered eggs as well.</b></p> <p>8 Q. Powdered eggs, okay.</p> <p>9 And does Kraft have a contract with</p> <p>10 Henningsen Foods?</p> <p>11 <b>A. Yes.</b></p> <p>12 Q. Okay.</p> <p>13 <b>A. The same type of annual purchase order.</b></p> <p>14 Q. Annual purchase order with a formula-based</p> <p>15 price?</p> <p>16 <b>A. Correct.</b></p> <p>17 Q. Index off of the Urner Barry?</p> <p>18 <b>A. That is correct.</b></p> <p>19 Q. Okay. And it's a yearly, a yearly</p> <p>20 contract or purchase order?</p> <p>21 <b>A. It's typically a yearly purchase order,</b></p> <p>22 <b>yes.</b></p> <p>23 Q. Okay. Do you know if the 1999 data was</p> <p>24 not available at the time this was created or</p> <p>25 why it's not included there?</p>   |
| <p style="text-align: right;">35</p> <p>1 index?</p> <p>2 <b>A. Yes. So it's typically a formula price</b></p> <p>3 <b>that's based on an index.</b></p> <p>4 Q. And is that index the Urner Barry price</p> <p>5 index --</p> <p>6 <b>A. Yes.</b></p> <p>7 Q. -- or some other index?</p> <p>8 <b>A. No, it's the Urner Barry price index.</b></p> <p>9 Q. And so I understand, it's a formula price</p> <p>10 that follows the index.</p> <p>11 Does the price change throughout the year?</p> <p>12 <b>A. Yes, it does.</b></p> <p>13 Q. Okay.</p> <p>14 <b>A. It changes with the index.</b></p> <p>15 Q. Okay. Perfect. So we mentioned it was a</p> <p>16 fixed price. I just want to be clear.</p> <p>17 <b>A. Yes. So let me clarify. It would be a --</b></p> <p>18 <b>if there is a formula price, the formula would</b></p> <p>19 <b>be the same for the time period. The actual</b></p> <p>20 <b>commodity could rise and fall with the market.</b></p> <p>21 Q. Perfect. That makes sense. So what</p> <p>22 Kraft negotiates is what the formula is or how</p> <p>23 the price paid will differ from the base --</p> <p>24 <b>A. Correct.</b></p> <p>25 Q. -- price, right?</p> | <p style="text-align: right;">37</p> <p>1 <b>A. No. I don't know. My assumption would be</b></p> <p>2 <b>we didn't ask for it.</b></p> <p>3 Q. Okay. That's fine. Okay. So we can set</p> <p>4 that one aside.</p> <p>5 MS. CLAIR: I'll hand you what's been</p> <p>6 marked Exhibit 5.</p> <p>7 (Manion Deposition Exhibit No. 5</p> <p>8 marked for identification.)</p> <p>9 BY MS. CLAIR:</p> <p>10 Q. Mr. Manion, are you familiar with the</p> <p>11 transactional data that Kraft produced in this</p> <p>12 litigation?</p> <p>13 <b>A. The information that I was able to</b></p> <p>14 <b>produce. I'm not aware of all of the other</b></p> <p>15 <b>information that former buyers may have produced.</b></p> <p>16 Q. Okay. So that's fine. Yeah.</p> <p>17 <b>A. Yeah.</b></p> <p>18 Q. This is a document that was produced</p> <p>19 natively. I can tell you it was Bates labeled</p> <p>20 KRA00045324, just for everyone's records. And the</p> <p>21 title in the document as produced was "Eggs PO."</p> <p>22 Do you know how this document was</p> <p>23 prepared?</p> <p>24 Actually, I'll ask first have you</p> <p>25 seen this document before?</p> |

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|---|--|
| <p style="text-align: right;">38</p> <p>1 <b>A. Yeah. I mean, it looks like Kraft -- I</b><br/> 2 <b>probably haven't seen it in maybe 4 years, but</b><br/> 3 <b>yes. Yup.</b><br/> 4 Q. So do I take that to mean that this is not<br/> 5 a document that was created just for the purpose<br/> 6 of this litigation?<br/> 7 <b>A. No, I believe it probably was.</b><br/> 8 Q. Okay. So this litigation has been going<br/> 9 on a long time, yeah. That's true.<br/> 10 <b>A. Yup.</b><br/> 11 Q. Okay. Fair enough.<br/> 12 Do you know who prepared this?<br/> 13 <b>A. I can't recall exactly who, who prepared</b><br/> 14 <b>it. It looks like a download of information from</b><br/> 15 <b>our systems.</b><br/> 16 BY MS. CLAIR:<br/> 17 Q. Do you know which system this would have<br/> 18 been downloaded from?<br/> 19 <b>A. I'm not exactly sure which system it would</b><br/> 20 <b>be downloaded.</b><br/> 21 Q. Does the SAP system ring a bell?<br/> 22 <b>A. Yeah, uh-huh.</b><br/> 23 Q. Do you think that's where --<br/> 24 <b>A. We're -- we are on SAP now.</b><br/> 25 Q. At some point was Kraft on -- not on the</p> | <p style="text-align: right;">40</p> <p>1 <b>the purchase orders that we create.</b><br/> 2 Q. Okay.<br/> 3 <b>A. It basically enables the plant to</b><br/> 4 <b>purchase.</b><br/> 5 Q. Okay. Who, generally, has responsibility<br/> 6 for putting information into the SAP system?<br/> 7 <b>A. That would be the category manager.</b><br/> 8 Q. Category manager?<br/> 9 <b>A. Yeah.</b><br/> 10 Q. And does the category manager have<br/> 11 knowledge of the information that he or she is<br/> 12 inputting at the time?<br/> 13 <b>A. Yes.</b><br/> 14 Q. And does the category manager have a<br/> 15 responsibility to Kraft to be accurate --<br/> 16 <b>A. Yes.</b><br/> 17 Q. -- in doing that?<br/> 18 <b>A. Yup.</b><br/> 19 Q. Okay. Do you have any reason to think<br/> 20 that this exhibit is not an accurate compilation<br/> 21 of data from that SAP system?<br/> 22 <b>A. I have no reason to believe it is.</b><br/> 23 Q. Okay. And would this include, if you<br/> 24 know, data from all of the Kraft entities that<br/> 25 we talked about before?</p>           |
| <p style="text-align: right;">39</p> <p>1 SAP system?<br/> 2 <b>A. Yes.</b><br/> 3 Q. And what did Kraft use before the<br/> 4 SAP system?<br/> 5 <b>A. We used a system called Prism. That's</b><br/> 6 <b>what I'm trying to get a sense of the dates on</b><br/> 7 <b>this.</b><br/> 8 Q. I think that these on this document and<br/> 9 the next one I'll show you are rather recent.<br/> 10 <b>A. Uh-huh.</b><br/> 11 Q. If that's helpful to you.<br/> 12 <b>A. Yup. I see it's 2010, 2009, '09, '10,</b><br/> 13 <b>'11 and '12 it looks like. It doesn't look like</b><br/> 14 <b>anything prior to that.</b><br/> 15 Q. When did Kraft switch over to the<br/> 16 SAP system?<br/> 17 <b>A. I believe in 2009.</b><br/> 18 Q. Okay.<br/> 19 <b>A. Yup.</b><br/> 20 Q. And how does Kraft use the SAP system in<br/> 21 its regular business?<br/> 22 <b>A. So it is a contracting and purchase order</b><br/> 23 <b>system. It's an inventory management system. So</b><br/> 24 <b>we generate and create contracts in purchase</b><br/> 25 <b>orders in SAP, and the plants can release off of</b></p>                                   | <p style="text-align: right;">41</p> <p>1 <b>A. My assumption would be yes.</b><br/> 2 Q. Because the purchasing is done centrally,<br/> 3 right?<br/> 4 <b>A. It's central, yes.</b><br/> 5 Q. That makes everything easier for all of<br/> 6 us.<br/> 7 <b>A. Yup. Yup.</b><br/> 8 Q. Okay. Let's just walk through. There's<br/> 9 a couple of the column headings. I just want to<br/> 10 make sure we understand. This is the boring part<br/> 11 of the deposition.<br/> 12 <b>A. Yup. Yup. No problem.</b><br/> 13 Q. Under the third column where it's called<br/> 14 "Item" and there's some numbers there, do you know<br/> 15 what those numbers represent?<br/> 16 <b>A. Purchase doc, the one column B?</b><br/> 17 Q. Well, what is purchase doc?<br/> 18 <b>A. Purchase doc would be a requisition from</b><br/> 19 <b>the plant.</b><br/> 20 Q. Per -- and would there be one purchase doc<br/> 21 per transaction?<br/> 22 <b>A. That is correct.</b><br/> 23 Q. Okay. And one column over is "Item."<br/> 24 What is that?<br/> 25 Do you see number 10 listed for most of</p> |

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| <p style="text-align: right;">42</p> <p>1 these?</p> <p>2 <b>A. Yeah. I think that is a -- that is</b></p> <p>3 <b>probably a line item on an SAP contract.</b></p> <p>4 Q. Okay.</p> <p>5 <b>A. Number 10, so.</b></p> <p>6 MS. MARKOWITZ: I'm sorry, I don't think</p> <p>7 I got the right Bates label. Could you say it</p> <p>8 again?</p> <p>9 MS. CLAIRE: Sure. This is KRA00045324.</p> <p>10 Okay.</p> <p>11 <b>A. So SAP numbers the items on the contract,</b></p> <p>12 <b>10 being the first item, 20 being the second item,</b></p> <p>13 <b>30 being the third item.</b></p> <p>14 BY MS. CLAIRE:</p> <p>15 Q. By "Item" you mean the type of egg product</p> <p>16 being purchased?</p> <p>17 <b>A. The item that is on the contract, right.</b></p> <p>18 Q. The item on the contract. So the egg</p> <p>19 item?</p> <p>20 <b>A. Right. Yeah.</b></p> <p>21 Q. Okay.</p> <p>22 <b>A. So 10 could represent any number of items,</b></p> <p>23 <b>but it's just the first one on that contract.</b></p> <p>24 Q. Okay. That's understandable.</p> <p>25 <b>A. Yeah.</b></p>                                     | <p style="text-align: right;">44</p> <p>1 And a little below, this might be the same</p> <p>2 answer, do you see "Egg BX50 Egg Yolk Solids"?</p> <p>3 <b>A. Fifty pound box.</b></p> <p>4 Q. Fifty pound box. Perfect.</p> <p>5 <b>A. So that would be a dry egg product in a</b></p> <p>6 <b>50 pound box.</b></p> <p>7 Q. Perfect. That's helpful. Thank you.</p> <p>8 <b>A. Yup.</b></p> <p>9 Q. "Plnt," is that the plant that took</p> <p>10 delivery?</p> <p>11 <b>A. That's plant that took delivery, correct.</b></p> <p>12 Q. And the next one over is "Doc. Date." Do</p> <p>13 you know which date that refers to?</p> <p>14 <b>A. My assumption would be the date that it</b></p> <p>15 <b>was created, the date that the purchase document</b></p> <p>16 <b>was created.</b></p> <p>17 Q. Okay. Rather than a delivery date?</p> <p>18 <b>A. Correct. I think that's on column L.</b></p> <p>19 Q. Got it.</p> <p>20 <b>A. The delivery date.</b></p> <p>21 Q. "Del. Date." Perfect.</p> <p>22 A little further over we see a column</p> <p>23 called "Quantity" and another column called</p> <p>24 "Delivered."</p> <p>25 And sometimes the values are the same,</p>   |
| <p style="text-align: right;">43</p> <p>1 Q. So a couple of columns over is one</p> <p>2 called "Short Text." Does this appear to be</p> <p>3 a description of the type of product?</p> <p>4 <b>A. That's the description of the product.</b></p> <p>5 Q. And let's look at the very first line.</p> <p>6 "FLV DR50 Natural Egg Flavor." What is that</p> <p>7 product, if you know?</p> <p>8 <b>A. That could be a -- that could be an</b></p> <p>9 <b>egg product that we use as a flavoring agent</b></p> <p>10 <b>in our products would be my guess.</b></p> <p>11 Q. Okay. And the DR 50, do you know,</p> <p>12 generally, what that represents?</p> <p>13 <b>A. Fifty gallon drum.</b></p> <p>14 Q. Okay. Okay.</p> <p>15 <b>A. Yup.</b></p> <p>16 Q. Perfect. That's not what I would have</p> <p>17 thought. That's helpful.</p> <p>18 So it represents the volume?</p> <p>19 <b>A. Yes, that's correct, pack size.</b></p> <p>20 Q. So that's not telling us what type of</p> <p>21 egg flavor?</p> <p>22 <b>A. It is not.</b></p> <p>23 Q. It's a volume?</p> <p>24 <b>A. Right.</b></p> <p>25 Q. That's helpful.</p> | <p style="text-align: right;">45</p> <p>1 and sometimes they're different. Do you know what</p> <p>2 would explain a difference in those?</p> <p>3 <b>A. Sure. If you have something that is a</b></p> <p>4 <b>catch weight item or it's not an exact weight,</b></p> <p>5 <b>it could be, it could be different.</b></p> <p>6 <b>So an estimated weight as an example on</b></p> <p>7 <b>one of these lines 9, the quantity ordered was</b></p> <p>8 <b>880 pounds, the delivered was 881.82. So we --</b></p> <p>9 <b>the plant will receive in what they actually get.</b></p> <p>10 Q. Okay. And a little further down below</p> <p>11 that, there's some that are negative. Do you know</p> <p>12 what that refers to? Negative 400 KG is the first</p> <p>13 example there.</p> <p>14 MR. CAMPBELL: Could you give me a line</p> <p>15 number, Katy?</p> <p>16 MS. CLAIRE: Sure. Lines 13 and 14.</p> <p>17 MR. CAMPBELL: Oh, I see. Okay. It looks</p> <p>18 like 14 and 15.</p> <p>19 MS. CLAIRE: Oh, I might have miscounted</p> <p>20 there.</p> <p>21 MR. CAMPBELL: Do you see that, Scott?</p> <p>22 THE WITNESS: Yes.</p> <p>23 MR. CAMPBELL: Under column H.</p> <p>24 <b>A. This looks to me like the plant was</b></p> <p>25 <b>backing out, potentially, a purchase order that</b></p> |



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| <p style="text-align: right;">46</p> <p>1 <b>was not received.</b></p> <p>2 BY MS. CLAIR:</p> <p>3 Q. Okay.</p> <p>4 <b>A. And I say that because line 14, and this</b></p> <p>5 <b>is just my speculation, line 14, 15 and 16 are all</b></p> <p>6 <b>documents generated on the same day.</b></p> <p>7 Q. Uh-huh. I see that. Okay.</p> <p>8 And the negative -- the columns with the</p> <p>9 rows with a negative quantity also look like they</p> <p>10 have a negative net value so --</p> <p>11 <b>A. Yes.</b></p> <p>12 Q. Does that make sense to you?</p> <p>13 <b>A. It does. Yes.</b></p> <p>14 Q. Okay.</p> <p>15 <b>A. So the plant may have made an order in</b></p> <p>16 <b>error and backed it out.</b></p> <p>17 Q. That's fine. I just wanted to make sure</p> <p>18 we understand it.</p> <p>19 A little further over under "Agreement,"</p> <p>20 there's a series of numbers. Do you know what</p> <p>21 those refer to?</p> <p>22 <b>A. That would be the contract number.</b></p> <p>23 Q. Okay.</p> <p>24 <b>A. The overarching contract number.</b></p> <p>25 Q. And if we wanted to determine a unit</p>   | <p style="text-align: right;">48</p> <p>1 Q. Okay. Would this data include any</p> <p>2 specialty-type eggs that Kraft purchases?</p> <p>3 MR. CAMPBELL: I don't want to interject,</p> <p>4 but perhaps you ought to lay a foundation. It</p> <p>5 asked whether they purchase specialty eggs.</p> <p>6 MS. CLAIR: That's fair enough.</p> <p>7 BY MS. CLAIR:</p> <p>8 Q. Mr. Manion, I will back up.</p> <p>9 <b>A. Uh-huh.</b></p> <p>10 Q. To your knowledge, does Kraft purchase any</p> <p>11 eggs that you would understand to be described as</p> <p>12 specialty eggs?</p> <p>13 <b>A. Can you clarify "specialty" a little bit</b></p> <p>14 <b>more for me?</b></p> <p>15 Q. I can. And I think the best way to do it</p> <p>16 would be to look back to the last exhibit that we</p> <p>17 had, pull it out.</p> <p>18 This was the interrogatories. And in the</p> <p>19 back there's a claim form --</p> <p>20 <b>A. Manion 4, right, No. 4?</b></p> <p>21 Q. That is correct. Yes.</p> <p>22 <b>A. Okay.</b></p> <p>23 Q. And so where I think we could get some</p> <p>24 assistance is in page 2 of the claim form --</p> <p>25 <b>A. Okay. I'm getting there.</b></p> |
| <p style="text-align: right;">47</p> <p>1 price, would we divide quantity by net value?</p> <p>2 <b>A. That is correct.</b></p> <p>3 Q. Okay. Would we do --</p> <p>4 <b>A. Delivered quantity.</b></p> <p>5 Q. Delivered quantity, because that's the</p> <p>6 actual delivered quantity?</p> <p>7 <b>A. That's what we received in our system</b></p> <p>8 <b>based on what the supplier delivered to us.</b></p> <p>9 Q. Perfect. If there were any discounts</p> <p>10 or rebates or credits applied to any of these</p> <p>11 transactions, would that be reflected here?</p> <p>12 MR. CAMPBELL: Objection as to form.</p> <p>13 THE WITNESS: Do I answer that?</p> <p>14 MR. CAMPBELL: Yes. Yes. Absolutely.</p> <p>15 THE WITNESS: Okay.</p> <p>16 <b>A. There is -- we did not receive any</b></p> <p>17 <b>rebates. We had a discount that was a part of</b></p> <p>18 <b>our formula price.</b></p> <p>19 BY MS. CLAIR:</p> <p>20 Q. Okay. And, if you know, does this data in</p> <p>21 this document include -- let me back up and ask</p> <p>22 this.</p> <p>23 Does Kraft purchase any eggs not pursuant</p> <p>24 to a contract?</p> <p>25 <b>A. No, we would not, not from manufacturing.</b></p> | <p style="text-align: right;">49</p> <p>1 Q. Take your time.</p> <p>2 <b>A. Yup. Okay. B?</b></p> <p>3 Q. Under B.</p> <p>4 <b>A. Okay.</b></p> <p>5 Q. The last sentence under B, do you see it</p> <p>6 says "Excluded from the subclass are purchases of</p> <p>7 'specialty' Egg Products..."</p> <p>8 <b>A. Got it.</b></p> <p>9 Q. And in parenthesis it lists "(certified</p> <p>10 organic, nutritionally enhanced, cage-free,</p> <p>11 free-range or vegetarian-fed types.)" Do you see</p> <p>12 that?</p> <p>13 <b>A. Uh-huh.</b></p> <p>14 Q. So, in general, if I've heard of specialty</p> <p>15 egg products, let's use this definition for our</p> <p>16 purposes today just for clarity.</p> <p>17 Does Kraft purchase any of these types of</p> <p>18 products?</p> <p>19 <b>A. We at one point bought a very small amount</b></p> <p>20 <b>of organic eggs.</b></p> <p>21 Q. Okay. And in the relevant time period,</p> <p>22 did Kraft buy any cage-free eggs?</p> <p>23 <b>A. Not that I'm aware.</b></p> <p>24 Q. Any free range?</p> <p>25 <b>A. No.</b></p>  |



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| <p style="text-align: right;">50</p> <p>1 Q. Okay.</p> <p>2 <b>A. No.</b></p> <p>3 Q. Okay. And would those organic egg</p> <p>4 purchases, the small amount that you referenced,</p> <p>5 be included in the data in this Manion 5 exhibit?</p> <p>6 <b>A. No, it is not.</b></p> <p>7 Q. It's excluded?</p> <p>8 <b>A. Yup.</b></p> <p>9 Q. When this was created, were those -- were</p> <p>10 steps taken to specifically exclude that data?</p> <p>11 <b>A. I don't believe we were buying them at the</b></p> <p>12 <b>time.</b></p> <p>13 Q. Okay. Fair enough, because this is only a</p> <p>14 certain time period?</p> <p>15 <b>A. Correct.</b></p> <p>16 Q. Got it. Okay. Now, at this time most of</p> <p>17 these dates are beyond our relevant time period</p> <p>18 here.</p> <p>19 Was Kraft purchasing any cage free eggs in</p> <p>20 these later years?</p> <p>21 MR. CAMPBELL: I'm sorry. Could you</p> <p>22 clarify that question by reference to years? What</p> <p>23 do you mean by years?</p> <p>24 MS. CLAIR: Sure. Sure.</p> <p>25</p>   | <p style="text-align: right;">52</p> <p>1 Q. Excellent. Okay.</p> <p>2 <b>A. This is just our standard egg products</b></p> <p>3 <b>that we've purchased from these suppliers.</b></p> <p>4 Q. Okay. That's helpful. Thank you,</p> <p>5 Mr. Manion.</p> <p>6 <b>A. Yup. And these were not cage-free</b></p> <p>7 <b>purchases.</b></p> <p>8 Q. Okay. Let's go to the next. I'm going to</p> <p>9 hand you what we'll mark as Manion 6.</p> <p>10 (Manion Deposition Exhibit No. 6</p> <p>11 marked for identification.)</p> <p>12 MS. CLAIR: And for those on the phone and</p> <p>13 for us here, this is a natively produced file with</p> <p>14 the Bates number KRA00055645.</p> <p>15 BY MS. CLAIR:</p> <p>16 Q. Mr. Manion, does this appear to be</p> <p>17 additional transactional data that Kraft produced</p> <p>18 in this litigation?</p> <p>19 <b>A. It does appear that way, yes. Correct.</b></p> <p>20 Q. Okay. And these column headings appear</p> <p>21 similar to those in the last document that we</p> <p>22 looked at, right?</p> <p>23 <b>A. Correct.</b></p> <p>24 Q. So where there's a column heading here and</p> <p>25 one in the last exhibit, is it fair to say it</p> |
| <p style="text-align: right;">51</p> <p>1 BY MS. CLAIR:</p> <p>2 Q. So the years covered by this document</p> <p>3 I think we established were 2009 and later after</p> <p>4 Kraft switched to the SAP system.</p> <p>5 <b>A. Yup.</b></p> <p>6 Q. So in that time frame, 2009 and beyond,</p> <p>7 was Kraft purchasing cage-free eggs?</p> <p>8 <b>A. I cannot recall. I do not believe so.</b></p> <p>9 Q. Okay. Do you know whether any steps were</p> <p>10 taken when this data was compiled to determine</p> <p>11 whether Kraft purchased any cage-free eggs and</p> <p>12 whether those should be excluded from this data?</p> <p>13 <b>A. Say again.</b></p> <p>14 Q. Do you know -- fair enough.</p> <p>15 Do you know whether when this document was</p> <p>16 created, the people who created it took any steps</p> <p>17 to ensure that any amount of cage-free eggs, if</p> <p>18 they were purchased, would have been excluded from</p> <p>19 this data?</p> <p>20 <b>A. My assumption is that this does not</b></p> <p>21 <b>include any cage-free eggs.</b></p> <p>22 Q. Okay. What do you base that assumption</p> <p>23 on?</p> <p>24 <b>A. Based on looking at the products and the</b></p> <p>25 <b>people that we purchased from.</b></p> | <p style="text-align: right;">53</p> <p>1 would mean the same thing?</p> <p>2 <b>A. Yes.</b></p> <p>3 Q. Okay. So let's look at columns H and J,</p> <p>4 if you could. Column J is "Quantity Delivered,"</p> <p>5 right, whereas column A is "Order quantity"?</p> <p>6 <b>A. That is correct.</b></p> <p>7 Q. If you look at the values under column J,</p> <p>8 quantity delivered, it looks like those are 1350</p> <p>9 across the board here. Do you see that?</p> <p>10 <b>A. I do see that.</b></p> <p>11 Q. And if you column at column H, "Order</p> <p>12 Quantity," it looks like there's some variance in</p> <p>13 the values there.</p> <p>14 My question is why the difference, if you</p> <p>15 know?</p> <p>16 <b>A. I do not know. I do not know. 47,000, as</b></p> <p>17 <b>an example, would be a tanker load.</b></p> <p>18 Q. Okay.</p> <p>19 <b>A. Okay. So that would be the standard</b></p> <p>20 <b>weight of a tanker load.</b></p> <p>21 Q. Okay.</p> <p>22 <b>A. So I do not, I do not know.</b></p> <p>23 Q. That's fine. Let's go to another one.</p> <p>24 MS. CLAIR: We'll mark this as Manion 7.</p> <p>25</p>  |

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| <p style="text-align: right;">54</p> <p>1 (Manion Deposition Exhibit No. 7<br/>2 marked for identification.)<br/>3 THE WITNESS: Thank you. The print is<br/>4 getting smaller.<br/>5 MS. CLAIR: It is. I apologize. Yes.<br/>6 BY MS. CLAIR:<br/>7 Q. Somehow it has to fit into -- to make<br/>8 everything fit into these little boxes here. It's<br/>9 big enough to carry.<br/>10 So let's look at the very small print on<br/>11 the cover page here. Does it look like the title<br/>12 of this document is "PO's for Archiving Written<br/>13 2003"?<br/>14 <b>A. Yes.</b><br/>15 Q. Okay. And for those on the phone and the<br/>16 record, this is a document produced in native form<br/>17 with the Bates number KRA00037654.<br/>18 <b>A. Uh-huh.</b><br/>19 Q. Is this another one of the documents that<br/>20 Kraft produced as part of its transactional data<br/>21 in this litigation?<br/>22 <b>A. Yes, it appears to be.</b><br/>23 Q. And where -- what system would this data<br/>24 have come from?<br/>25 <b>A. It looks like the Prism system that was</b></p>  | <p style="text-align: right;">56</p> <p>1 Q. Okay. So if we just turn to the -- just<br/>2 a couple of similar questions for column headings<br/>3 here, just so we can get the lay of the land.<br/>4 Under "Vendor Name" in these columns,<br/>5 these aren't all vendors of egg products, are<br/>6 they?<br/>7 <b>A. They are not.</b><br/>8 Q. Okay.<br/>9 <b>A. They are not.</b><br/>10 Q. And under "Date," there are two date<br/>11 columns here. And, only if you know, do you know<br/>12 the difference between them?<br/>13 <b>A. I don't for certain, but I can -- I</b><br/>14 <b>would speculate that one is an order -- the</b><br/>15 <b>date the order was produced and the second column</b><br/>16 <b>further to the right is the date received.</b><br/>17 Q. Let me --<br/>18 <b>A. Since there's typically -- it looks like</b><br/>19 <b>there's a two-week time span from one to the next.</b><br/>20 Q. Okay. Just as a matter of format, when<br/>21 the date says 103-02-05, is that February 5, 2003?<br/>22 <b>A. I would think so.</b><br/>23 Q. Okay.<br/>24 <b>A. I think so.</b><br/>25 Q. All right. Under "Net Price," if you</p> |
| <p style="text-align: right;">55</p> <p>1 <b>preSAP.</b><br/>2 Q. And was the Prism system used in the same<br/>3 way that the SAP system is used now?<br/>4 <b>A. Yes.</b><br/>5 Q. Okay. And were the people who were<br/>6 inputting information into the Prism system<br/>7 similarly responsible to do so in an accurate<br/>8 manner and with knowledge of the information they<br/>9 were inputting at the time they did it?<br/>10 <b>A. Yes.</b><br/>11 Q. Do you have any reason to think that this<br/>12 document isn't an accurate compilation of data<br/>13 from that system?<br/>14 <b>A. I have no reason to believe.</b><br/>15 Q. Okay. Was this document, PO for Archiving<br/>16 type of document, something that was created for<br/>17 this litigation specifically?<br/>18 <b>A. And I don't know.</b><br/>19 Q. You don't know? Okay.<br/>20 <b>A. I don't know.</b><br/>21 Q. Do you know whether this is something that<br/>22 Kraft -- this type of document is something Kraft<br/>23 would have used in its regular course of business?<br/>24 <b>A. Yup. If this is a listing of archive</b><br/>25 <b>purchase orders, then yes.</b></p> | <p style="text-align: right;">57</p> <p>1 know, is that a prize per transaction?<br/>2 MR. CAMPBELL: I object to the form. I<br/>3 simply don't understand the question.<br/>4 MS. CLAIR: I'm asking whether it's a<br/>5 price per transaction or per pound or something<br/>6 else.<br/>7 <b>A. Per unit of measure.</b><br/>8 BY MS. CLAIR:<br/>9 Q. Per unit of measure. Okay.<br/>10 And under the -- is the next column<br/>11 "Pricing U/M," what is the U/M?<br/>12 <b>A. That would be unit of measurement.</b><br/>13 Q. Just so I understand them, what is TH?<br/>14 <b>A. And I am not -- I'm not familiar with that</b><br/>15 <b>unit of measure.</b><br/>16 Q. That's fine. LB is probably pound, right?<br/>17 <b>A. Right.</b><br/>18 Q. And a little further down we see CW; is<br/>19 that hundred weight?<br/>20 <b>A. That would be hundred weight.</b><br/>21 Q. Is "GA" gram?<br/>22 <b>A. Gallon probably.</b><br/>23 Q. Yeah, okay.<br/>24 <b>A. Gallon.</b><br/>25 Q. What is CA?</p>  |

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| <p style="text-align: right;">58</p> <p>1 <b>A. I can't be certain. That's not one that</b><br/> 2 <b>I've used.</b><br/> 3 Q. Is there any way to tell looking at this<br/> 4 document which plant received delivery?<br/> 5 <b>A. I believe the only way to define it is</b><br/> 6 <b>the first two letters of the purchase order number</b><br/> 7 <b>in the first column.</b><br/> 8 Q. I see those.<br/> 9 And what would those refer to?<br/> 10 <b>A. So GA, and this is taking me back to</b><br/> 11 <b>when that system was in use. My assumption would</b><br/> 12 <b>be GA might be the Garland plant, the Kraft plant.</b><br/> 13 <b>I only have GA on this entire document,</b><br/> 14 <b>so --</b><br/> 15 Q. I see. Okay.<br/> 16 <b>A. So it's difficult for me to -- if I had</b><br/> 17 <b>anything else, I might be able to correlate.</b><br/> 18 Q. Would Kraft have some kind of key to those<br/> 19 somewhere in its files?<br/> 20 <b>A. I don't know. This system has been</b><br/> 21 <b>archived for a long time now. Yup.</b><br/> 22 Q. Okay. That's fine.<br/> 23 <b>A. I cannot be certain.</b><br/> 24 Q. That's fine. And, like before, to the<br/> 25 extent that any discounts were applied to any</p> | <p style="text-align: right;">60</p> <p>1 BY MS. CLAIR:<br/> 2 Q. Okay. And, for the record, this is a file<br/> 3 that was produced natively with the beginning<br/> 4 Bates number of K -- I don't know that it's --<br/> 5 the beginning Bates number of KRA00037478. Okay.<br/> 6 And, correction, this was not produced natively.<br/> 7 There is a Bates number on the bottom. My<br/> 8 apologies.<br/> 9 Is this another one of the documents that<br/> 10 Kraft produced as part of its transactional data<br/> 11 in this lawsuit?<br/> 12 <b>A. Yes.</b><br/> 13 Q. And the title of this one at the very top<br/> 14 is "Contract Report," right?<br/> 15 <b>A. That is correct.</b><br/> 16 Q. Was this kind of contract report document<br/> 17 something that Kraft used in the ordinary course<br/> 18 of business?<br/> 19 <b>A. Yes.</b><br/> 20 Q. Would this have reflected data from the<br/> 21 Prism system?<br/> 22 <b>A. That is correct.</b><br/> 23 Q. Okay. Just to walk through this one<br/> 24 really quickly, under the middle of the page we<br/> 25 see "Item Detail" and a couple of columns. And</p> |
| <p style="text-align: right;">59</p> <p>1 of these transactions, would that be specifically<br/> 2 reflected on this document?<br/> 3 MR. CAMPBELL: Objection as to form.<br/> 4 <b>A. On this document it wouldn't be. I mean,</b><br/> 5 <b>it's -- it wouldn't be listed.</b><br/> 6 BY MS. CLAIR:<br/> 7 Q. And you mentioned before that when<br/> 8 Kraft has discounts, those are rolled into its<br/> 9 formula in the contract; is that an accurate<br/> 10 description of your testimony?<br/> 11 <b>A. In the case of the eggs, the discount was</b><br/> 12 <b>part of the formula price.</b><br/> 13 Q. Was that the case in this 2003 time frame<br/> 14 as well?<br/> 15 <b>A. I'm not certain. I'm not certain.</b><br/> 16 Q. Okay. We're almost through with these,<br/> 17 I swear.<br/> 18 <b>A. Okay.</b><br/> 19 MS. CLAIR: Mark this as Manion -- are we<br/> 20 up to 7?<br/> 21 MR. CAMPBELL: Eight this would be.<br/> 22 MS. CLAIR: 8.<br/> 23 (Manion Deposition Exhibit No. 8<br/> 24 marked for identification.)<br/> 25</p>  | <p style="text-align: right;">61</p> <p>1 one of the columns is "Description." Do you see<br/> 2 that?<br/> 3 <b>A. Yes.</b><br/> 4 Q. Is that "Description" the type of product?<br/> 5 <b>A. It is correct, yes.</b><br/> 6 Q. And a little further over we see a column<br/> 7 called "Effect Date" and much further over one<br/> 8 called "End Date." Do you know what those refer<br/> 9 to?<br/> 10 <b>A. They would refer to the start date. Let</b><br/> 11 <b>me see, the start date and the end date of the</b><br/> 12 <b>contract.</b><br/> 13 Q. Okay. So for this first line here,<br/> 14 "EGG TE2M Whites Salt," the effect date is 1/1/05,<br/> 15 and the end date is 7/31/05?<br/> 16 <b>A. Correct.</b><br/> 17 Q. So that's about a 6-month contract?<br/> 18 <b>A. Seven-month contract, yes.</b><br/> 19 Q. Seven-month contract. The one to the end<br/> 20 of July, right?<br/> 21 <b>A. Yes.</b><br/> 22 Q. Okay.<br/> 23 <b>A. "TE2M" is a 2000 pound tote. That's what</b><br/> 24 <b>TE2M --</b><br/> 25 Q. Thank you. Helpful.</p>  |

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| <p style="text-align: right;">62</p> <p>1 And in the middle here we see "Warehouse."<br/> 2 Is that how we would tell where delivery was made?<br/> 3 <b>A. Correct.</b><br/> 4 Q. And just a little further down under<br/> 5 "Purchase Item History," there are some columns<br/> 6 Actual Quantity Over Value, Received Quantity Over<br/> 7 Value and Invoiced Quantity Over Value.<br/> 8 Could you help me understand what those<br/> 9 columns refer to?<br/> 10 <b>A. This would be the -- actual quantity over</b><br/> 11 <b>value would be the quantity received or this would</b><br/> 12 <b>be the quantity ordered it looks like.</b><br/> 13 Q. Okay.<br/> 14 <b>A. And the calculated value based on the</b><br/> 15 <b>price per unit of measure.</b><br/> 16 Q. Okay.<br/> 17 <b>A. Under Received Quantity it shows what was</b><br/> 18 <b>received. And the price per unit of measure it</b><br/> 19 <b>looks like 43 cents. And then under the Invoiced</b><br/> 20 <b>Quantity it would be the received quantity</b><br/> 21 <b>multiplied by the unit of measure.</b><br/> 22 Q. Got it. Okay. Thank you.<br/> 23 <b>A. So I'm not doing the math here, but my</b><br/> 24 <b>assumption is 280,000 times 43 cents is \$101,000.</b><br/> 25 Q. Okay. Thank you. That's helpful,</p> | <p style="text-align: right;">64</p> <p>1 Exhibit Manion No. 7.<br/> 2 BY MS. CLAIR:<br/> 3 Q. Thank you. Thank you.<br/> 4 <b>A. It looks to be a detailed history of each</b><br/> 5 <b>record placed.</b><br/> 6 <b>Manion No. 8 would be a summary document.</b><br/> 7 Q. So is it your understanding that the same<br/> 8 purchases are reflected in both of these types of<br/> 9 documents, but in a different manner?<br/> 10 <b>A. In a different form, yes.</b><br/> 11 Q. Different form. Thank you. Okay.<br/> 12 (Manion Deposition Exhibit No. 9<br/> 13 marked for identification.)<br/> 14 BY MS. CLAIR:<br/> 15 Q. I'll hand you what we'll mark as Manion 9.<br/> 16 <b>A. Thank you.</b><br/> 17 Q. This is a document produced natively where<br/> 18 the Bates label begins KRA00053263 and with the<br/> 19 file name of Plant X REF.<br/> 20 Mr. Manion, have you seen this document<br/> 21 before?<br/> 22 <b>A. I may have seen this document. I can't</b><br/> 23 <b>recall if I've seen it before.</b><br/> 24 Q. What does this document appear to be?<br/> 25 <b>A. Kraft manufacturing plants, a listing of</b></p> |
| <p style="text-align: right;">63</p> <p>1 Mr. Manion.<br/> 2 <b>A. Yup.</b><br/> 3 Q. And is it right to understand that the<br/> 4 listings under "Purchase Item History" are --<br/> 5 are those purchase orders made pursuant to the<br/> 6 contract referenced above or are they something<br/> 7 else?<br/> 8 <b>A. This would be -- this would be the record</b><br/> 9 <b>for that contract.</b><br/> 10 Q. Okay. For the entire contract?<br/> 11 <b>A. Correct.</b><br/> 12 Q. The -- and when you say this, do you<br/> 13 mean the entries under purchase item history on<br/> 14 the bottom of the page?<br/> 15 <b>A. Correct. That would be the history of</b><br/> 16 <b>what was purchased from that contract.</b><br/> 17 Q. Okay. Do you know the difference in --<br/> 18 if you know, the difference in how this document,<br/> 19 the contract report, was used at Kraft as opposed<br/> 20 to the last document we looked at, POs for<br/> 21 Archiving?<br/> 22 <b>A. This would look like a detailed report</b><br/> 23 <b>inclusive of every single order placed.</b><br/> 24 MR. CAMPBELL: Scott, identify --<br/> 25 THE WITNESS: Oh, in Manion No. 7,</p>  | <p style="text-align: right;">65</p> <p>1 <b>Kraft manufacturing plants.</b><br/> 2 Q. And in column B under "Plnt," there are a<br/> 3 series of numbers, right?<br/> 4 <b>A. That's correct.</b><br/> 5 Q. Would these be --<br/> 6 <b>A. It's the SAP number associated with that</b><br/> 7 <b>plant.</b><br/> 8 Q. So when we looked through some of the<br/> 9 last few exhibits when they had a column titled<br/> 10 "Plnt" and a number, would I use this document to<br/> 11 tell which plant that number refers to?<br/> 12 <b>A. Yes.</b><br/> 13 Q. Perfect. Okay.<br/> 14 MS. CLAIR: I'm going to switch gears a<br/> 15 little bit. It might be a good time for a break?<br/> 16 MR. CAMPBELL: Fine.<br/> 17 THE VIDEOGRAPHER: Going off the record at<br/> 18 10:10 a.m.<br/> 19 (Recess taken.)<br/> 20 THE VIDEOGRAPHER: We're back on the<br/> 21 record at 10:26 a.m.<br/> 22 BY MS. CLAIR:<br/> 23 Q. Mr. Manion, are you familiar with a<br/> 24 company called Crop Cooperative?<br/> 25 <b>A. Yes.</b></p>  |

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| <p style="text-align: right;">66</p> <p>1 Q. What is that company?</p> <p>2 <b>A. As I understand it, it is a organic egg</b></p> <p>3 <b>manufacturing company. Yup.</b></p> <p>4 Q. Does Kraft purchase organic eggs from</p> <p>5 Crop Cooperative?</p> <p>6 <b>A. I believe at one point we did, yes. Yup.</b></p> <p>7 Q. Did Kraft purchase any other types of eggs</p> <p>8 from Crop Cooperative?</p> <p>9 <b>A. Not that I'm aware of.</b></p> <p>10 Q. Okay.</p> <p>11 (Manion Deposition Exhibit No. 10</p> <p>12 marked for identification.)</p> <p>13 BY MS. CLAIR:</p> <p>14 Q. I hand you Manion Exhibit 10, Bates</p> <p>15 labeled KRA00053784. Do you recognize this</p> <p>16 document?</p> <p>17 MR. CAMPBELL: I'm sorry, Katie, what was</p> <p>18 the number?</p> <p>19 MS. CLAIR: KRA- --</p> <p>20 MR. CAMPBELL: No, no, the exhibit number.</p> <p>21 MS. CLAIR: Oh, 10. Exhibit 10.</p> <p>22 MR. CAMPBELL: Thank you. Sorry.</p> <p>23 MS. CLAIR: No problem.</p> <p>24 BY MS. CLAIR:</p> <p>25 Q. Mr. Manion, is this an email that you</p>  | <p style="text-align: right;">68</p> <p>1 "Overall Sourcing Strategy. Our primary strategy</p> <p>2 has been to keep competitive pricing through</p> <p>3 bids for the main players, Rose Acre, Lashbrook</p> <p>4 (Canada), and Michael Foods." Do you see that?</p> <p>5 <b>A. Yes, I do.</b></p> <p>6 Q. How does Kraft keep competitive pricing</p> <p>7 for its main egg suppliers?</p> <p>8 <b>A. Well, we typically do a competitive</b></p> <p>9 <b>bid process to understand the pricing that each</b></p> <p>10 <b>supplier provides.</b></p> <p>11 Q. Do you request bids from specific</p> <p>12 companies?</p> <p>13 <b>A. Yes, we do.</b></p> <p>14 Q. Are the bids open to any egg supplier?</p> <p>15 <b>A. Not any egg supplier. Generally, we</b></p> <p>16 <b>select several egg suppliers.</b></p> <p>17 Q. What are the egg suppliers that you</p> <p>18 have requested bids from other than Rose Acre,</p> <p>19 Michael Foods, Lashbrook, Oskaloosa, Henningsen,</p> <p>20 the ones that we talked about already?</p> <p>21 <b>A. I believe there were two additional</b></p> <p>22 <b>suppliers, one being Sparboe Foods and --</b></p> <p>23 Q. Okay.</p> <p>24 <b>A. -- I believe Rembrandt, maybe Rembrandt</b></p> <p>25 <b>Foods.</b></p> |
| <p style="text-align: right;">67</p> <p>1 received on April 14, 2008?</p> <p>2 <b>A. Yes.</b></p> <p>3 Q. And it's from Jose Rojo?</p> <p>4 <b>A. That is correct.</b></p> <p>5 Q. And who is Jose Rojo?</p> <p>6 <b>A. I believe Jose Rojo at that particular</b></p> <p>7 <b>time was John Gregorich's supervisor responsible</b></p> <p>8 <b>for -- John Gregorich was responsible for the</b></p> <p>9 <b>egg category at the time, and I believe Jose was</b></p> <p>10 <b>his supervisor.</b></p> <p>11 Q. And did Mr. Rojo have knowledge about</p> <p>12 Kraft's egg procurement strategies around this</p> <p>13 time frame?</p> <p>14 <b>A. My assumption would be yes, since he was</b></p> <p>15 <b>responsible for the buyer who owned that category</b></p> <p>16 <b>or managed that category.</b></p> <p>17 Q. Did his responsibilities include</p> <p>18 communicating from time to time with others in</p> <p>19 the company about those strategies?</p> <p>20 <b>A. My assumption would be yes.</b></p> <p>21 Q. Does this email appear to be one example</p> <p>22 of that type of communication?</p> <p>23 <b>A. Yes.</b></p> <p>24 Q. Let's just look at the top email in</p> <p>25 the first bullet point where Jose Rojo says</p> | <p style="text-align: right;">69</p> <p>1 Q. Okay.</p> <p>2 <b>A. Yup.</b></p> <p>3 Q. Did these companies actually submit bids</p> <p>4 to Kraft at any point during the relevant time</p> <p>5 period?</p> <p>6 <b>A. Yes.</b></p> <p>7 Q. And did Kraft eventually decide not to</p> <p>8 purchase from them?</p> <p>9 <b>A. Yes.</b></p> <p>10 Q. With respect to Sparboe, do you know why?</p> <p>11 <b>A. It could have been a number of factors,</b></p> <p>12 <b>price, capacity. It could have been a number of</b></p> <p>13 <b>factors. I don't recall exactly what factors.</b></p> <p>14 Q. With respect to Rembrandt, do you recall</p> <p>15 why?</p> <p>16 <b>A. It could have been the same thing, price,</b></p> <p>17 <b>it could have been capa- -- available capacity.</b></p> <p>18 Q. You mentioned available capacity. Is</p> <p>19 it important for Kraft to supply or be able to</p> <p>20 supply a certain minimum volume that Kraft needs?</p> <p>21 <b>A. Yes. Yup.</b></p> <p>22 Q. Are there some egg suppliers on the</p> <p>23 market that you know of that aren't able to supply</p> <p>24 that volume?</p> <p>25 <b>A. Yes.</b></p>   |



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| <p style="text-align: right;">70</p> <p>1 Q. Does Kraft have quality standards for the</p> <p>2 eggs that it purchases?</p> <p>3 <b>A. Yes, we do.</b></p> <p>4 Q. What kind of quality standards does it</p> <p>5 have?</p> <p>6 <b>A. We have a specification for, specification</b></p> <p>7 <b>for each product that lists the parameters, the</b></p> <p>8 <b>quality parameters that we expect from the</b></p> <p>9 <b>supplier.</b></p> <p>10 Q. And what are the -- what goes into</p> <p>11 developing the specification?</p> <p>12 <b>A. R&amp;D creates a specification. There are</b></p> <p>13 <b>certain quality parameters that are established</b></p> <p>14 <b>in the specification, temperature, you know,</b></p> <p>15 <b>certain things like, you know, certain tests that</b></p> <p>16 <b>need to be done, quality testing.</b></p> <p>17 Q. Okay. Does Kraft R&amp;D that you just</p> <p>18 mentioned ever work with R&amp;D or technical-type</p> <p>19 personnel at the suppliers?</p> <p>20 <b>A. I would say yes. Yup.</b></p> <p>21 Q. Do they work with them during the bidding</p> <p>22 process?</p> <p>23 <b>A. Not necessarily during the bidding</b></p> <p>24 <b>process. I think what we have is a specification</b></p> <p>25 <b>that we put out to bid so we're not developing</b></p> | <p style="text-align: right;">72</p> <p>1 Q. Has Kraft ever had a problem with any of</p> <p>2 its suppliers not meeting its quality standards?</p> <p>3 <b>A. I think on occasion we probably have with</b></p> <p>4 <b>every supplier. It's not uncommon.</b></p> <p>5 Q. Has Kraft ever ended a relationship with</p> <p>6 a supplier because it couldn't meet its quality</p> <p>7 standards?</p> <p>8 <b>A. If a supplier were to chronically not be</b></p> <p>9 <b>able to meet our quality standards or not be able</b></p> <p>10 <b>to remediate, we may end -- that might be a reason</b></p> <p>11 <b>for ending the relationship.</b></p> <p>12 Q. Does Kraft buy different types of</p> <p>13 egg products based on the different uses to</p> <p>14 which Kraft puts its products?</p> <p>15 <b>A. Yes.</b></p> <p>16 Q. Are all of the products that Kraft -- all</p> <p>17 of the egg products that Kraft buys made</p> <p>18 specifically to Kraft specifications?</p> <p>19 <b>A. No, I wouldn't say that. We have some</b></p> <p>20 <b>products that are to Kraft formulas, and we've</b></p> <p>21 <b>got other products that are just standard market</b></p> <p>22 <b>products, dried egg yolk as an example. It's just</b></p> <p>23 <b>standard. It can be sold to anyone.</b></p> <p>24 Q. So a standard market product, like</p> <p>25 dried egg yolk, are there a relatively large</p> |
| <p style="text-align: right;">71</p> <p>1 <b>something at the time that we're bidding.</b></p> <p>2 Q. Uh-huh.</p> <p>3 <b>A. They're kind of separate, they're kind of</b></p> <p>4 <b>separate events.</b></p> <p>5 Q. Once Kraft has a relationship with a</p> <p>6 supplier, do Kraft R&amp;D personnel do any testing</p> <p>7 of the products that Kraft buys to make sure that</p> <p>8 they actually meet the specifications?</p> <p>9 <b>A. Yes.</b></p> <p>10 Q. Do you do that for every pound that you</p> <p>11 buy?</p> <p>12 <b>A. Every load. As an example, for a tanker</b></p> <p>13 <b>load of eggs, the supplier provides us</b></p> <p>14 <b>with a certificate of analysis, C of A. The</b></p> <p>15 <b>C of A lists the parameters, whatever testing</b></p> <p>16 <b>parameters are required within the specification,</b></p> <p>17 <b>are defined in the C of A.</b></p> <p>18 Q. Okay.</p> <p>19 <b>A. When the tanker comes in, personnel at</b></p> <p>20 <b>the plant assess whether or not the load meets the</b></p> <p>21 <b>standards of the specification before they receive</b></p> <p>22 <b>it.</b></p> <p>23 Q. Okay. And if it didn't meet the</p> <p>24 specifications, would they turn it away?</p> <p>25 <b>A. They would turn it away.</b></p>                                    | <p style="text-align: right;">73</p> <p>1 number of suppliers that Kraft could buy that</p> <p>2 kind of product from?</p> <p>3 <b>A. We are limited as to the suppliers that</b></p> <p>4 <b>we can buy from because they have to meet quality</b></p> <p>5 <b>standards. They need to be qualified by our</b></p> <p>6 <b>quality organization.</b></p> <p>7 Q. Okay.</p> <p>8 <b>A. So there may be, there may be ten</b></p> <p>9 <b>suppliers out there, but it doesn't mean that</b></p> <p>10 <b>I can buy from any one of those ten. They have</b></p> <p>11 <b>to meet certain parameters before they are deemed</b></p> <p>12 <b>approved for use.</b></p> <p>13 Q. And that's even for the standard-type</p> <p>14 products that Kraft buys, correct?</p> <p>15 <b>A. Correct. Yup.</b></p> <p>16 Q. About how long does that qualification</p> <p>17 process take to qualify a supplier, as you just</p> <p>18 discussed?</p> <p>19 <b>A. It can take a number of months. I mean,</b></p> <p>20 <b>it's not an instantaneous process. You have to</b></p> <p>21 <b>approve their manufacturing site, and then we</b></p> <p>22 <b>also have to approve their product in our product.</b></p> <p>23 <b>So does it function well in our mayonnaise as an</b></p> <p>24 <b>example.</b></p> <p>25 Q. Okay.</p>   |



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| <p style="text-align: right;">74</p> <p>1 <b>A. So there's multiple, multiple segments to</b><br/> 2 <b>the qualification process.</b><br/> 3 Q. Does Kraft incorporate its quality<br/> 4 standards into its contracts?<br/> 5 <b>A. Yes. The contract states that the</b><br/> 6 <b>supplier must meet the specification.</b><br/> 7 Q. Aside from quality specifications,<br/> 8 volume that we just talked about, are there<br/> 9 other factors that are important to Kraft when<br/> 10 choosing a supplier?<br/> 11 <b>A. So the supplier has to have the capacity</b><br/> 12 <b>to meet our requirements, it has to have the</b><br/> 13 <b>service parameters that we require, it has to</b><br/> 14 <b>have -- the manufacturing site has to be approved</b><br/> 15 <b>by our quality organization, the price has to be</b><br/> 16 <b>competitive, and their product must function in</b><br/> 17 <b>our product.</b><br/> 18 Q. You mentioned service parameters; what do<br/> 19 you mean by that?<br/> 20 <b>A. We take eggs in tankers. Does the</b><br/> 21 <b>supplier have the capability to load liquid eggs</b><br/> 22 <b>into tankers at their facility in order for us to</b><br/> 23 <b>take delivery in tankers as an example.</b><br/> 24 Q. Are there some egg product suppliers that<br/> 25 don't have that ability?</p> | <p style="text-align: right;">76</p> <p>1 Q. Okay.<br/> 2 MS. CLAIR: For those on the phone<br/> 3 following, this is KRA00046260.<br/> 4 BY MS. CLAIR:<br/> 5 Q. Let's look at page 1 under product and<br/> 6 quality.<br/> 7 <b>A. Quantity.</b><br/> 8 Q. Quantity, thank you. Thank you.<br/> 9 <b>A. Yes.</b><br/> 10 Q. So is Rose Acre here agreeing to supply<br/> 11 100 percent of Kraft's requirements for the<br/> 12 egg products identified in Exhibit A to this<br/> 13 agreement?<br/> 14 <b>A. Yes, that is correct.</b><br/> 15 Q. Why did Kraft choose to purchase<br/> 16 100 percent of its requirements for at least<br/> 17 those types of products from one supplier?<br/> 18 <b>A. As I understand, Kraft sold two of its</b><br/> 19 <b>egg manufacturing sites to Rose Acre.</b><br/> 20 Q. Okay. Do you know when that happened?<br/> 21 <b>A. I do not.</b><br/> 22 Q. Is Kraft currently engaged in egg<br/> 23 manufacturing?<br/> 24 <b>A. No.</b><br/> 25 Q. At some point in the past, it did?</p>   |
| <p style="text-align: right;">75</p> <p>1 <b>A. I would say yes, there probably is.</b><br/> 2 Q. Is delivery time important for Kraft in<br/> 3 its egg product purchases?<br/> 4 <b>A. Yup, because it's a perishable product so</b><br/> 5 <b>time is important. So that would be part of the</b><br/> 6 <b>service parameters.</b><br/> 7 Q. Okay. I'm doing to hand you what we'll<br/> 8 mark as Manion 11.<br/> 9<br/> 10 (Manion Deposition Exhibit No. 11<br/> 11 marked for identification.)<br/> 12 THE WITNESS: Thank you.<br/> 13 BY MS. CLAIR:<br/> 14 Q. Have you seen this document before?<br/> 15 <b>A. Yes, I have.</b><br/> 16 Q. What is this document?<br/> 17 <b>A. This looks to be a copy of the Rose Acre</b><br/> 18 <b>Farm and Kraft Foods' product supply agreement.</b><br/> 19 Q. Okay. And this is, if you look at<br/> 20 page 21, this is signed by both Kraft and<br/> 21 Rose Acre, right?<br/> 22 <b>A. That is correct.</b><br/> 23 Q. And if you look at the first page, this is<br/> 24 dated the 1st of May 2004, right?<br/> 25 <b>A. That is correct.</b></p>   | <p style="text-align: right;">77</p> <p>1 <b>A. I believe so.</b><br/> 2 Q. And it sold those facilities, at least two<br/> 3 of them, to Rose Acre?<br/> 4 <b>A. Correct, as I understand it.</b><br/> 5 Q. Okay. And is that why -- one of the<br/> 6 reasons why Kraft chose to purchase from<br/> 7 Rose Acre?<br/> 8 <b>A. I would think so.</b><br/> 9 Q. Okay. Do you know why Kraft chose to<br/> 10 buy all of its needs for those -- for certain<br/> 11 products from Rose Acre rather than buying a<br/> 12 portion from Rose Acre and a portion from some<br/> 13 other producer?<br/> 14 <b>A. I don't really know. I don't know that.</b><br/> 15 Q. Okay. So Kraft's egg purchase contracts<br/> 16 are the result of negotiations, right?<br/> 17 <b>A. Correct.</b><br/> 18 Q. About how long do those negotiations take?<br/> 19 <b>A. It could vary.</b><br/> 20 Q. For those negotiations with Rose Acre, do<br/> 21 you know about how long those took?<br/> 22 <b>A. I have no idea how long they would have</b><br/> 23 <b>taken for this contract.</b><br/> 24 Q. What are the steps involved in negotiating<br/> 25 an egg purchase contract with a supplier?</p> |

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| <p style="text-align: right;">78</p> <p>1 <b>A. Generally speaking or --</b></p> <p>2 Q. Generally speaking.</p> <p>3 <b>A. You would go through the RFP process,</b></p> <p>4 <b>you would identify the supplier, you would ensure</b></p> <p>5 <b>that that supplier has the quality, the price and</b></p> <p>6 <b>capacity to support the business, and then you</b></p> <p>7 <b>would you generate an agreement similar to this.</b></p> <p>8 <b>And then typically it is negotiated back and forth</b></p> <p>9 <b>between the parties.</b></p> <p>10 Q. Who at Kraft does that negotiation?</p> <p>11 <b>A. It's typically the buyer responsible for</b></p> <p>12 <b>the category.</b></p> <p>13 Q. Would that be the, I don't want to get</p> <p>14 this title wrong, the product category manager</p> <p>15 that we discussed before?</p> <p>16 <b>A. That's correct.</b></p> <p>17 Q. Those same individuals generally?</p> <p>18 <b>A. Yup. Yup.</b></p> <p>19 Q. Let's turn to the second page of this</p> <p>20 contract and look at item (b) called "Payment."</p> <p>21 It says here that "Payment from Kraft to</p> <p>22 Seller shall be at net payment due ten days after</p> <p>23 delivery of the Product." Do you see that?</p> <p>24 <b>A. Yes, I do.</b></p> <p>25 Q. Was this term part of the negotiations</p> | <p style="text-align: right;">80</p> <p>1 Q. Perfect. Let's look at item C, pricing</p> <p>2 for other customers.</p> <p>3 <b>A. Uh-huh.</b></p> <p>4 Q. If you'd take a second to review this.</p> <p>5 <b>A. Yup. Okay, I've read it.</b></p> <p>6 Q. How does this pricing work?</p> <p>7 <b>A. It's basically a provision that states</b></p> <p>8 <b>that Kraft will get as favorable a price for the</b></p> <p>9 <b>products it purchases from Rose Acre as Rose Acre</b></p> <p>10 <b>would charge to any of its other customers.</b></p> <p>11 <b>In other words, Kraft will not pay more</b></p> <p>12 <b>than your other customers.</b></p> <p>13 Q. Was this term the result of the</p> <p>14 negotiations between Kraft and Rose Acre?</p> <p>15 <b>A. Yes.</b></p> <p>16 Q. Do you know who proposed this term in the</p> <p>17 negotiations?</p> <p>18 <b>A. Typically, it would be Kraft proposing</b></p> <p>19 <b>that term.</b></p> <p>20 Q. And let's look at item (d), please, titled</p> <p>21 "Failure to Meet Competitor's Price."</p> <p>22 <b>A. Yup.</b></p> <p>23 Q. Could you review that one and let me know</p> <p>24 how this provision works?</p> <p>25 <b>A. Okay. I've read it.</b></p>   |
| <p style="text-align: right;">79</p> <p>1 over this contract?</p> <p>2 <b>A. Yes. Payment terms is something that's</b></p> <p>3 <b>negotiated in a contract, yes.</b></p> <p>4 Q. Does this term benefit Kraft?</p> <p>5 <b>A. Not necessarily.</b></p> <p>6 Q. Okay. Is it more beneficial for Kraft to</p> <p>7 submit payment after delivery rather than before</p> <p>8 delivery?</p> <p>9 <b>A. Well, no. It's customary that you would</b></p> <p>10 <b>not pay before delivery.</b></p> <p>11 Q. Would Kraft ever agree to that kind of</p> <p>12 contract where it was paying before delivery?</p> <p>13 <b>A. In certain categories, not typically in</b></p> <p>14 <b>food categories.</b></p> <p>15 Q. Not for food?</p> <p>16 <b>A. Or raw material categories. I shouldn't</b></p> <p>17 <b>say food, I should say raw material categories.</b></p> <p>18 Q. Okay. And why is that?</p> <p>19 <b>A. Well, after -- the product needs to be</b></p> <p>20 <b>received, okay, and its receipt and confirmation</b></p> <p>21 <b>is what triggers the payment.</b></p> <p>22 Q. Because, as you said, you need to make</p> <p>23 sure it's up to the right standards and --</p> <p>24 <b>A. Correct, and all of the parameters are</b></p> <p>25 <b>met, yup.</b></p>   | <p style="text-align: right;">81</p> <p>1 Q. Okay. What does this provision mean in</p> <p>2 practical terms?</p> <p>3 <b>A. It means that if Kraft were to get a</b></p> <p>4 <b>competitive offer from a third party, Rose Acre</b></p> <p>5 <b>has the first right to meet that competitor's</b></p> <p>6 <b>price before Kraft would take action to move its</b></p> <p>7 <b>business to the lower-priced provider.</b></p> <p>8 Q. So Kraft is able to comparison shop during</p> <p>9 the duration of this contract as long as it gives</p> <p>10 Rose Acre that right of first refusal; is that how</p> <p>11 this generally works?</p> <p>12 <b>A. In practice, in practice it does not work</b></p> <p>13 <b>that way, that Kraft is competitively shopping</b></p> <p>14 <b>other suppliers. It does give Kraft a provision</b></p> <p>15 <b>if we were solicited by a third party to act on</b></p> <p>16 <b>that.</b></p> <p>17 Q. So it reserves that right for Kraft?</p> <p>18 <b>A. Correct, and it also reserves the right</b></p> <p>19 <b>on Rose Acre that they can equally compete to</b></p> <p>20 <b>maintain their business.</b></p> <p>21 Q. So in a way that benefits both parties in</p> <p>22 some ways, right?</p> <p>23 <b>A. I would say yes.</b></p> <p>24 Q. And was this term part of the negotiations</p> <p>25 over this contract?</p> |

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| <p style="text-align: right;">82</p> <p>1 <b>A. It would be part of the negotiations.</b></p> <p>2 Q. Okay. Did Kraft ever exercise its rights</p> <p>3 under this kind of provision or relationship with</p> <p>4 Rose Acre?</p> <p>5 <b>A. I really -- during my period of time, no,</b></p> <p>6 <b>but I have no idea.</b></p> <p>7 Q. Okay. That's fine.</p> <p>8 And at the top of page 2 under "Product</p> <p>9 Pricing," do you see the second sentence says</p> <p>10 "If the egg producer's industry is required to</p> <p>11 adopt standards concerning the ethical treatment</p> <p>12 of animals, such as the treatment, housing or</p> <p>13 handling of layer hens, resulting in increased</p> <p>14 Product costs that, in Kraft's reasonable</p> <p>15 judgment, are not reflected in the Urner Barry</p> <p>16 industry pricing, of if" or if "Kraft requires</p> <p>17 Seller to adopt such standards, then Kraft agrees</p> <p>18 to negotiate with Seller in good faith regarding</p> <p>19 the pricing under this agreement."</p> <p>20 What does that mean?</p> <p>21 <b>A. This would be a provision where Rose Acre</b></p> <p>22 <b>would have the right to reopen negotiations on</b></p> <p>23 <b>price.</b></p> <p>24 Q. In the event that some type of standards</p> <p>25 concerning the ethical treatment of animals were</p> | <p style="text-align: right;">84</p> <p>1 Q. Okay. So you see we have a list of</p> <p>2 product types at the top here, right?</p> <p>3 <b>A. Yes, that's correct.</b></p> <p>4 Q. What is "Feme?"</p> <p>5 <b>A. I don't know what that is. I don't know</b></p> <p>6 <b>what that is.</b></p> <p>7 Q. Okay. That's fine. And below that</p> <p>8 it's --</p> <p>9 <b>A. It's obviously a product --</b></p> <p>10 Q. Uh-huh.</p> <p>11 <b>A. -- but I don't know what that stands for.</b></p> <p>12 Q. Okay. That's all right. I don't know</p> <p>13 either.</p> <p>14 Below that --</p> <p>15 <b>A. But it -- functional enzyme modified</b></p> <p>16 <b>egg --</b></p> <p>17 Q. Okay.</p> <p>18 <b>A. -- would be a guess on my part, but</b></p> <p>19 <b>likely.</b></p> <p>20 Q. Okay. Let me see, "Discount Schedule for</p> <p>21 Salt Yolk."</p> <p>22 <b>A. Yeah.</b></p> <p>23 Q. And under "Chart (A)" we see the heading</p> <p>24 is Low Side UB Salt Yolk Egg Market. Is "UB"</p> <p>25 Urner Barry?</p>  |
| <p style="text-align: right;">83</p> <p>1 adopted, right?</p> <p>2 <b>A. Correct.</b></p> <p>3 Q. So at this time, this is a 2004</p> <p>4 contract --</p> <p>5 <b>A. Yup.</b></p> <p>6 Q. -- Kraft and Rose Acre were contemplating</p> <p>7 the possibility of animal welfare standard's</p> <p>8 increase in prices?</p> <p>9 MR. CAMPBELL: Objection to form.</p> <p>10 <b>A. And I'm not aware of that in 2004.</b></p> <p>11 BY MS. CLAIR:</p> <p>12 Q. In 2004?</p> <p>13 <b>A. Yeah.</b></p> <p>14 Q. This document seems to indicate that</p> <p>15 there's a possibility that if such standards</p> <p>16 were implemented, it might result in increased</p> <p>17 product costs. Is that a fair reading of this?</p> <p>18 <b>A. It's a fair reading.</b></p> <p>19 Q. Okay. And the first sentence of this</p> <p>20 provision tells us that for prices we should look</p> <p>21 to Exhibit B; is that right?</p> <p>22 <b>A. Yes.</b></p> <p>23 Q. Okay. Let's go to Exhibit B, if we could.</p> <p>24 And I can tell you it's the page ending in 83.</p> <p>25 <b>A. Yup. I'm there.</b></p>   | <p style="text-align: right;">85</p> <p>1 <b>A. Urner Barry, correct.</b></p> <p>2 Q. And the next column says "Discount." One</p> <p>3 is a percent per pound, another looks like it</p> <p>4 might be a dollar amount per pound; is that right?</p> <p>5 <b>A. Yeah. If I look at chart B, it would seem</b></p> <p>6 <b>that it's percent, but under chart A it only has</b></p> <p>7 <b>a percent under 3.</b></p> <p>8 Q. Uh-huh. Okay.</p> <p>9 <b>A. So my assumption would be it is 3 percent</b></p> <p>10 <b>when the price is between 40 and 80 cents,</b></p> <p>11 <b>and when the price is 80 cents or greater, there</b></p> <p>12 <b>is a .024 cents per pound discount.</b></p> <p>13 Q. Okay.</p> <p>14 <b>A. That's my interpretation of this.</b></p> <p>15 Q. How are these discounts arrived at?</p> <p>16 <b>A. My assumption would be it was negotiated</b></p> <p>17 <b>between Kraft and Rose Acre.</b></p> <p>18 Q. Okay. Let's go to the next page. And,</p> <p>19 if you can, let's just pick an example of a</p> <p>20 product. In the upper right we see 10 percent</p> <p>21 salted whole egg.</p> <p>22 How do we get from the Urner Barry price</p> <p>23 to the price that Kraft actually pays? What else</p> <p>24 is included?</p> <p>25 <b>A. So it is based on a formula that</b></p> |

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| <p style="text-align: right;">86</p> <p>1 <b>adds additional yolk and salt to the finished</b><br/> 2 <b>10 percent salt-yolk formula.</b><br/> 3 Q. So you pay some for that additional yolk?<br/> 4 <b>A. Correct.</b><br/> 5 Q. Some for that additional salt?<br/> 6 <b>A. That is correct.</b><br/> 7 Q. And there's a line item called "Lab Costs<br/> 8 (new spec.)"<br/> 9 Does Kraft pay some additional component<br/> 10 for Rose Acre's laboratory costs?<br/> 11 <b>A. My assumption would be yes.</b><br/> 12 Q. Okay.<br/> 13 <b>A. Probably a testing fee.</b><br/> 14 Q. In the negotiations with Rose Acre, do you<br/> 15 know which party suggested using the Urner Barry<br/> 16 price as the base?<br/> 17 <b>A. I don't know.</b><br/> 18 Q. In Kraft's business with Michael Foods,<br/> 19 does Kraft also use a formula based on an<br/> 20 Urner Barry price?<br/> 21 <b>A. As I understand it, yes.</b><br/> 22 Q. In its negotiations with Michael Foods,<br/> 23 do you know which party proposed using that<br/> 24 formula with an Urner Barry price?<br/> 25 <b>A. Again, I'm not sure who proposed it.</b></p> | <p style="text-align: right;">88</p> <p>1 <b>agreement between Kraft and Rose Acre between</b><br/> 2 <b>2002 and 2004.</b><br/> 3 MS. CLAIRE: Okay. Just for the record,<br/> 4 this is KRA00048928.<br/> 5 BY MS. CLAIRE:<br/> 6 Q. Okay. And this, if we look at page 20,<br/> 7 was signed by both Kraft and Rose Acre, right?<br/> 8 <b>A. That is correct.</b><br/> 9 Q. Okay. Let's look at a couple of<br/> 10 provisions here. Let's go to the second page of<br/> 11 this contract under "Product Pricing."<br/> 12 <b>A. Yup.</b><br/> 13 Q. And the second sentence here, do you<br/> 14 see it says "In lieu of the pricing formula in<br/> 15 Exhibit B, Seller will offer Kraft firm prices<br/> 16 for each Product every three months during the<br/> 17 term of this Agreement, beginning July, 2002."<br/> 18 And it goes on "At Kraft's option, it<br/> 19 may elect the firm prices or the variable pricing<br/> 20 in Exhibit B." Did I read that right?<br/> 21 <b>A. Yes. That's correct.</b><br/> 22 Q. So how does that provision work?<br/> 23 <b>A. My assumption would be that Rose Acre</b><br/> 24 <b>would provide Kraft with a price for a certain</b><br/> 25 <b>time period, a 3-month time period, and Kraft</b></p> |
| <p style="text-align: right;">87</p> <p>1 Q. Okay. Did Kraft have any concerns around<br/> 2 this 2004 time period of this Rose Acre contract<br/> 3 with using an Urner Barry based price?<br/> 4 <b>A. I don't particularly know, but I would</b><br/> 5 <b>assume not, since they put it in the contract.</b><br/> 6 Q. Okay.<br/> 7 <b>A. And it continued on as a pricing mechanism</b><br/> 8 <b>for many years past this contract.</b><br/> 9 Q. It's something that Kraft agreed to again<br/> 10 and again in its new contracts with Rose Acre,<br/> 11 right?<br/> 12 <b>A. That's correct.</b><br/> 13 Q. Okay. I'm going to hand you -- you can<br/> 14 set that one aside.<br/> 15 <b>A. Okay.</b><br/> 16 Q. And I'll hand you what we'll mark as<br/> 17 Manion 12.<br/> 18 (Manion Deposition Exhibit No. 12<br/> 19 marked for identification.)<br/> 20 THE WITNESS: Thank you.<br/> 21<br/> 22 BY MS. CLAIRE:<br/> 23 Q. Do you know what this document is,<br/> 24 Mr. Manion?<br/> 25 <b>A. This would be the product supply</b></p>   | <p style="text-align: right;">89</p> <p>1 <b>would elect to take that price or elect not to.</b><br/> 2 Q. So is it the case that every 3 months<br/> 3 under the duration of this contract, Rose Acre<br/> 4 would give Kraft essentially two options for<br/> 5 pricing, the formula based and a 3-month fixed<br/> 6 price, is that --<br/> 7 MR. CAMPBELL: Objection as to form.<br/> 8 BY MS. CLAIRE:<br/> 9 Q. -- accurate?<br/> 10 <b>A. Based on the way it reads, yes, I would</b><br/> 11 <b>say that's the case.</b><br/> 12 Q. Do you know which party proposed this term<br/> 13 of the contract?<br/> 14 <b>A. I would not know. I would not know.</b><br/> 15 Q. Do you know whether Kraft ever exercised<br/> 16 the option to pay the firm prices rather than the<br/> 17 formula-based prices?<br/> 18 <b>A. And, again, I do not know that. They may</b><br/> 19 <b>have, they may not have. They may have taken,</b><br/> 20 <b>you know, one 3-month period and then went -- I'm</b><br/> 21 <b>not certain.</b><br/> 22 Q. You just don't know?<br/> 23 <b>A. Yup.</b><br/> 24 Q. Okay. How is that option beneficial to<br/> 25 Kraft, if at all?</p>   |

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| <p style="text-align: right;">90</p> <p>1 <b>A. It would be beneficial to Kraft in that</b><br/> 2 <b>Kraft is able to understand or know what its price</b><br/> 3 <b>would be for a 3-month period of time.</b><br/> 4 Q. Uh-huh.<br/> 5 <b>A. So just rather than pricing that changes</b><br/> 6 <b>on a regular basis.</b><br/> 7 Q. Okay. Is having a choice also beneficial<br/> 8 to Kraft?<br/> 9 <b>A. I would say having that choice would be</b><br/> 10 <b>beneficial to Kraft, yes.</b><br/> 11 Q. Let's go to the next page under<br/> 12 item (f) called "Volume Rebates."<br/> 13 <b>A. Yup.</b><br/> 14 Q. Could you review that provision, please?<br/> 15 <b>A. Okay. I've read it.</b><br/> 16 Q. How does this provision work?<br/> 17 <b>A. It says "Seller agrees to take into</b><br/> 18 <b>consideration cost efficiencies resulting from</b><br/> 19 <b>incremental volume of Products in excess of prior</b><br/> 20 <b>year's volume..."</b><br/> 21 <b>So that would mean that if there are</b><br/> 22 <b>economies of scale that are realized by Kraft</b><br/> 23 <b>increasing its volume or if Kraft provides</b><br/> 24 <b>additional new volume in the form of new products,</b><br/> 25 <b>then we would agree to negotiate the prices of</b></p> | <p style="text-align: right;">92</p> <p>1 Q. And what is this document?<br/> 2 <b>A. It's a contract term extension to extend</b><br/> 3 <b>the term of the agreement through 2009.</b><br/> 4 Q. Under "Other Terms" do you see where it<br/> 5 says "As per Kraft Animal Welfare policy"?<br/> 6 <b>A. I do see that.</b><br/> 7 Q. Is Kraft here incorporating an animal<br/> 8 welfare policy into its agreement with Rose Acre?<br/> 9 <b>A. I believe that's the case.</b><br/> 10 MS. MARKOWITZ: Bates number?<br/> 11 MS. CLAIR: Pardon me, counsel?<br/> 12 MS. MARKOWITZ: Can you give me the Bates<br/> 13 number of Exhibit 13?<br/> 14 MS. CLAIR: It's KRA00045809.<br/> 15 BY MS. CLAIR:<br/> 16 Q. Okay. And above that in "Pricing<br/> 17 Process," do you see where it notes that<br/> 18 "Monthly pricing will be based on the Urner Barry<br/> 19 certified markets"?<br/> 20 <b>A. Yes.</b><br/> 21 Q. What is the Urner Barry certified markets?<br/> 22 <b>A. As I understand it, it's the price that</b><br/> 23 <b>they quote for the various products that they do</b><br/> 24 <b>price surveys for.</b><br/> 25 Q. And specifically the word certified there,</p> |
| <p style="text-align: right;">91</p> <p>1 <b>products which are the existing products and any</b><br/> 2 <b>new products or a rebate based on the total volume</b><br/> 3 <b>under this agreement.</b><br/> 4 <b>So flexibility to either renegotiate</b><br/> 5 <b>pricing based on economy of scale savings or</b><br/> 6 <b>establish a rebate.</b><br/> 7 Q. Did Kraft ever renegotiate pricing based<br/> 8 on economies of scale using this provision?<br/> 9 <b>A. And I'm -- I do not know that.</b><br/> 10 Q. Do you know whether Kraft ever received a<br/> 11 rebate under this provision?<br/> 12 <b>A. I do not know that either.</b><br/> 13 Q. Okay. Kraft continued purchasing eggs<br/> 14 from Rose Acre through contract extensions or<br/> 15 amendments up through the end of our relevant<br/> 16 time period, right?<br/> 17 <b>A. That is -- yes. As I understand it, yes.</b><br/> 18 Q. Okay. I'll hand you what we'll mark as<br/> 19 Manion 13.<br/> 20 (Manion Deposition Exhibit No. 13<br/> 21 marked for identification.)<br/> 22 THE WITNESS: Thank you.<br/> 23 BY MS. CLAIR:<br/> 24 Q. Have you seen this document before?<br/> 25 <b>A. Yes.</b></p>  | <p style="text-align: right;">93</p> <p>1 does that mean something different from other<br/> 2 Urner Barry prices?<br/> 3 <b>A. I don't, I don't recall the difference</b><br/> 4 <b>between the two.</b><br/> 5 Q. Okay. I'm going to hand you what we'll<br/> 6 mark as Manion 14.<br/> 7 (Manion Deposition Exhibit No. 14<br/> 8 marked for identification.)<br/> 9 THE WITNESS: Thank you.<br/> 10 MS. CLAIR: And for those on the phone,<br/> 11 this is KRA00002537.<br/> 12 BY MS. CLAIR:<br/> 13 Q. Mr. Manion, have you seen this document<br/> 14 before?<br/> 15 <b>A. Yes, I have.</b><br/> 16 Q. What is this document?<br/> 17 <b>A. This is a Product Supply Agreement between</b><br/> 18 <b>Kraft and Michael Foods.</b><br/> 19 Q. And this is signed by both parties on<br/> 20 page 12; is that right?<br/> 21 <b>A. Yes, that is correct.</b><br/> 22 Q. And it's dated 7/1/2007, right?<br/> 23 <b>A. That is correct.</b><br/> 24 Q. Was this the first contract that Kraft<br/> 25 entered with Michael Foods during our '99 to 2008</p>  |



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| <p style="text-align: right;">94</p> <p>1 time frame?</p> <p>2 <b>A. I believe so.</b></p> <p>3 Q. At this time Kraft was still buying some</p> <p>4 products from Rose Acre, right?</p> <p>5 <b>A. Correct. Yup.</b></p> <p>6 Q. Why did Kraft add Michael Foods as a</p> <p>7 supplier?</p> <p>8 <b>A. I believe because Michael Foods was a</b></p> <p>9 <b>producer of enzyme-modified egg.</b></p> <p>10 Q. Is that something that Rose Acre did not</p> <p>11 produce?</p> <p>12 <b>A. Possibly. Possibly, or not having the</b></p> <p>13 <b>same attributes or...</b></p> <p>14 Q. Okay. Let's turn to page 13 of this</p> <p>15 exhibit, which is titled "Exhibit A" to the</p> <p>16 contract.</p> <p>17 <b>A. Yup.</b></p> <p>18 Q. At the bottom of the page here under</p> <p>19 "Other Terms," do you see where it says "As per</p> <p>20 Kraft Animal Welfare policy..."?</p> <p>21 <b>A. Yes.</b></p> <p>22 Q. See exhibit?</p> <p>23 <b>A. Uh-huh.</b></p> <p>24 Q. And just below that it looks like the</p> <p>25 exhibit begins, right, that they're referring to?</p>  | <p style="text-align: right;">96</p> <p>1 Q. Okay.</p> <p>2 <b>A. -- eating chickens I should say. My</b></p> <p>3 <b>assumption is that the Turkey Federation would</b></p> <p>4 <b>not be applicable. And my interpretation would be</b></p> <p>5 <b>that the United Egg Producers guidelines would be</b></p> <p>6 <b>applicable.</b></p> <p>7 <b>So D would be applicable and potentially</b></p> <p>8 <b>B, since I can't -- I don't really know anything</b></p> <p>9 <b>about that one.</b></p> <p>10 Q. Okay. And back to page 13 under "Price,"</p> <p>11 this notes that prices are based on a formula</p> <p>12 priced that is based on an Urner Barry -- I'm</p> <p>13 sorry, I'll let you take your time.</p> <p>14 <b>A. Yeah. I got it now, yeah, under "Price."</b></p> <p>15 Q. Is pricing here based on a formula using</p> <p>16 the Urner Barry markets as the base?</p> <p>17 <b>A. That is correct.</b></p> <p>18 Q. And under "Payment Terms" it says</p> <p>19 "Net 21 days." What does net 21 days mean?</p> <p>20 <b>A. That means payment is due 21 days after</b></p> <p>21 <b>receipt of product.</b></p> <p>22 Q. Okay. Are all of these terms in this</p> <p>23 contract the result of negotiations between</p> <p>24 Michael Foods and Kraft?</p> <p>25 <b>A. They are.</b></p> |
| <p style="text-align: right;">95</p> <p>1 <b>A. Yes. That's what it looks like. There's</b></p> <p>2 <b>no page break there.</b></p> <p>3 Q. Right.</p> <p>4 <b>A. Yup.</b></p> <p>5 Q. What was Michael Foods required to comply</p> <p>6 with under this Kraft Animal Welfare policy?</p> <p>7 <b>A. Michael Foods was required to keep up</b></p> <p>8 <b>to date and comply with the most recent versions</b></p> <p>9 <b>of the above-listed animal welfare policies. And</b></p> <p>10 <b>they list them all there.</b></p> <p>11 Q. Okay.</p> <p>12 <b>A. Under (i) and (ii) under "Supplier must</b></p> <p>13 <b>comply with..."</b></p> <p>14 Q. Okay. And as a seller of eggs, which</p> <p>15 specific standard was Michael Foods required to</p> <p>16 comply with?</p> <p>17 <b>A. Okay. Let me go through these. I'm not</b></p> <p>18 <b>familiar with all of these, so bear with me.</b></p> <p>19 Q. Take your time. We're in no rush at all.</p> <p>20 <b>A. Okay. So my assumption would be that</b></p> <p>21 <b>these are all of our animal welfare policies.</b></p> <p>22 <b>I am not familiar with the National</b></p> <p>23 <b>Chicken Council, so I do not know if that</b></p> <p>24 <b>particular guideline and audit would be</b></p> <p>25 <b>applicable to laying chickens or --</b></p> | <p style="text-align: right;">97</p> <p>1 Q. I'm doing to hand you what we'll mark as</p> <p>2 Manion 15.</p> <p>3 (Manion Deposition Exhibit No. 15</p> <p>4 marked for identification.)</p> <p>5 BY MS. CLAIR:</p> <p>6 Q. Have you seen this document before?</p> <p>7 <b>A. I have, yes.</b></p> <p>8 Q. What is this document?</p> <p>9 <b>A. This is a contract term extension between</b></p> <p>10 <b>Kraft Foods and Michael Foods extending the term</b></p> <p>11 <b>for 1.5 years.</b></p> <p>12 Q. And the second paragraph references what</p> <p>13 looks like a prior contract extension; is that</p> <p>14 right?</p> <p>15 <b>A. Yes.</b></p> <p>16 Q. This extension doesn't change the pricing</p> <p>17 mechanisms from Kraft's previous contracts with</p> <p>18 Michael Foods, does it?</p> <p>19 MS. MARKOWITZ: What's the Bates?</p> <p>20 MS. CLAIR: Sure. This is KRA00046488.</p> <p>21 <b>A. So this says "All other provisions of</b></p> <p>22 <b>the Agreement and any modifications to the</b></p> <p>23 <b>Agreement made in subsequent extensions to the</b></p> <p>24 <b>Agreement remain in full force and effect..."</b></p> <p>25</p>  |



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| <p style="text-align: right;">98</p> <p>1 BY MS. CLAIR:</p> <p>2 Q. Okay. Let me ask you a more precise</p> <p>3 question than did it change pricing at all,</p> <p>4 because I don't want to -- that might be a</p> <p>5 very specific question.</p> <p>6 <b>A. No, it extends the existing pricing</b></p> <p>7 <b>formula that was established either in the</b></p> <p>8 <b>original document or in subsequent documents.</b></p> <p>9 Q. Okay.</p> <p>10 <b>A. Subsequent extensions.</b></p> <p>11 Q. Subsequent extensions.</p> <p>12 <b>A. Yeah.</b></p> <p>13 Q. Was Kraft still using Urner-Barry-based</p> <p>14 pricing in this extension of a contract?</p> <p>15 <b>A. Yes. As I understand, yes.</b></p> <p>16 Q. Was Kraft sufficiently satisfied with the</p> <p>17 terms of its pricing agreement with Michael Foods</p> <p>18 to extend and agree to them again?</p> <p>19 <b>A. Yes.</b></p> <p>20 Q. Okay. Why were prices for Kraft's</p> <p>21 egg purchases set using the Urner Barry price</p> <p>22 quotation?</p> <p>23 <b>A. It is generally accepted by the suppliers</b></p> <p>24 <b>as a survey that can be used to determine price.</b></p> <p>25 Q. Okay. I'm going to hand you what we'll</p> | <p style="text-align: right;">100</p> <p>1 <b>A. Correct.</b></p> <p>2 Q. What about Rick Marrese, what was his job?</p> <p>3 <b>A. Rick Marrese was responsible for</b></p> <p>4 <b>ingredients procurement, and he was my supervisor.</b></p> <p>5 Q. Okay. Was he knowledgeable about Kraft's</p> <p>6 egg procurement practices?</p> <p>7 <b>A. Yes. Yes, he was.</b></p> <p>8 Q. I want to direct your attention to the</p> <p>9 second email down in this chain from Alec Reusche</p> <p>10 where he lists "Some key points to note." Do you</p> <p>11 see that part of the document?</p> <p>12 <b>A. Yes.</b></p> <p>13 Q. So he's discussing what he calls a</p> <p>14 "cost plus type agreement" that Rose Acre used</p> <p>15 in the '90s; is that right?</p> <p>16 <b>A. So let me read this, because I was not --</b></p> <p>17 <b>I haven't seen this.</b></p> <p>18 Q. Sure. Yeah, take your time and read</p> <p>19 through it so we have a --</p> <p>20 <b>A. All right. Okay. I've read it.</b></p> <p>21 Q. Okay.</p> <p>22 <b>A. I'm not going to read through the article</b></p> <p>23 <b>that was in the Tribune, just these three parts.</b></p> <p>24 Q. That's fine. I didn't need to ask about</p> <p>25 that one, just about this.</p> |
| <p style="text-align: right;">99</p> <p>1 mark as Manion 16.</p> <p>2 (Manion Deposition Exhibit No. 16</p> <p>3 marked for identification.)</p> <p>4 BY MS. CLAIR:</p> <p>5 Q. Do you know what this document is?</p> <p>6 <b>A. It looks to be an email communication</b></p> <p>7 <b>between Alec Reusche and Rick Marrese.</b></p> <p>8 Q. Who's Alec Reusche?</p> <p>9 <b>A. He is a senior director in the Grocery</b></p> <p>10 <b>Business Unit.</b></p> <p>11 MS. MARKOWITZ: Bates label?</p> <p>12 MS. CLAIR: KRA00053509.</p> <p>13 BY MS. CLAIR:</p> <p>14 Q. Did his responsibilities require him</p> <p>15 to be knowledgeable about Kraft's egg purchasing</p> <p>16 practices?</p> <p>17 <b>A. Alec Reusche's --</b></p> <p>18 Q. Alec Reusche's.</p> <p>19 <b>A. Yes. He was not directly responsible for</b></p> <p>20 <b>the category.</b></p> <p>21 Q. Okay.</p> <p>22 <b>A. But he was, but he was -- he had an active</b></p> <p>23 <b>interest because he reported to the business unit</b></p> <p>24 <b>that used the eggs.</b></p> <p>25 Q. Okay. He was generally familiar?</p>  | <p style="text-align: right;">101</p> <p>1 Did Kraft in the 1990s at some point use a</p> <p>2 cost-plus-type agreement in its egg pricing?</p> <p>3 MR. CAMPBELL: Objection as to relevance.</p> <p>4 It's so far outside the relevant period that it's</p> <p>5 ludicrous, but -- it says '91 to '92.</p> <p>6 But you may answer the question.</p> <p>7 <b>A. And the answer is I do not know.</b></p> <p>8</p> <p>9 BY MS. CLAIR:</p> <p>10 Q. He notes that Kraft egg contracts have</p> <p>11 moved away from a formula-based contract and are</p> <p>12 now being priced exclusively off the weekly</p> <p>13 Urner Barry publication. Do you see that?</p> <p>14 <b>A. Yes, I do.</b></p> <p>15 Q. Do you know when Kraft made that move?</p> <p>16 <b>A. I do not.</b></p> <p>17 Q. Do you know whether it made that -- you</p> <p>18 don't know whether it made that move, so that's</p> <p>19 okay.</p> <p>20 Well, now I can ask this. Even if you</p> <p>21 don't know the precise date when Kraft made that</p> <p>22 move, do you know whether it made that move at any</p> <p>23 point after 1999?</p> <p>24 <b>A. Well, based on the contracts from 2004,</b></p> <p>25 <b>we were on the Urner Barry at 2004. And I believe</b></p>             |

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| <p style="text-align: right;">102</p> <p>1 <b>one of the other exhibits is the contract from</b><br/> 2 <b>2002, and we are on the Urner Barry as of 2002.</b><br/> 3 <b>I do not know if it was earlier than that,</b><br/> 4 <b>but based on this we were on it in 2002.</b><br/> 5 Q. Okay. Do you know anything about why<br/> 6 Kraft started using Urner-Barry-based pricing?<br/> 7 <b>A. It's my understanding it is the, it is</b><br/> 8 <b>the only market index that reports on the survey</b><br/> 9 <b>of buyers and sellers that is out there.</b><br/> 10 Q. Okay. Do you know of any other market --<br/> 11 any other indices that egg pricing is based on?<br/> 12 <b>A. Reported indexes, reported pricing.</b><br/> 13 Q. Any other reported pricing indexes that<br/> 14 could be used as a basis for purchasing eggs?<br/> 15 <b>A. I'm not aware. I'm not aware if there is</b><br/> 16 <b>any other.</b><br/> 17 Q. To your knowledge, has Kraft ever<br/> 18 considered using a pricing based on feed,<br/> 19 feed pricing indexes?<br/> 20 <b>A. Yes.</b><br/> 21 Q. It has?<br/> 22 <b>A. Uh-huh.</b><br/> 23 Q. Did Kraft do that during the relevant time<br/> 24 period at all?<br/> 25 <b>A. Consider it? Yes.</b></p> | <p style="text-align: right;">104</p> <p>1 Q. So those are some of the possible benefits<br/> 2 of that type of model that -- is that right?<br/> 3 <b>A. Those would be the reasons that it would</b><br/> 4 <b>be considered.</b><br/> 5 Q. Do you know -- my question is do you know<br/> 6 why it was not adopted?<br/> 7 MR. CAMPBELL: I have to object as to<br/> 8 form, because we're limiting it to the relevant<br/> 9 period.<br/> 10 BY MS. CLAIR:<br/> 11 Q. Do you know why it was not adopted --<br/> 12 MS. CLAIR: Yeah, everything, unless I say<br/> 13 otherwise, I'm talking about this relevant period.<br/> 14 I hate to -- I ask excessively long questions<br/> 15 already, so I hate to clutter them up with a date.<br/> 16 BY MS. CLAIR:<br/> 17 Q. But during this '99 to 2008 period, do<br/> 18 you know why it was not adopted ultimately despite<br/> 19 being considered?<br/> 20 <b>A. My assumption would be that egg prices</b><br/> 21 <b>were relatively stable.</b><br/> 22 Q. So what is that assumption based on?<br/> 23 <b>A. A historical look at egg prices from</b><br/> 24 <b>1999 to 2008.</b><br/> 25 Q. So Kraft didn't feel the need to switch to</p> |
| <p style="text-align: right;">103</p> <p>1 Q. Did it consider it?<br/> 2 <b>A. Evaluate it? Yes.</b><br/> 3 Q. Is there a reason -- did Kraft use it<br/> 4 during the relevant time period?<br/> 5 MR. CAMPBELL: Just so the record is<br/> 6 clear, you earlier defined the relevant time<br/> 7 period as 1999 to 2008.<br/> 8 MS. CLAIR: 2008.<br/> 9 MR. CAMPBELL: Correct?<br/> 10 MS. CLAIR: Yes.<br/> 11 MR. CAMPBELL: Okay. So the question is<br/> 12 did Kraft use --<br/> 13 MS. CLAIR: Use a feed-based formula.<br/> 14 MR. CAMPBELL: A feed-based formula<br/> 15 between 1999 and 2008?<br/> 16 MS. CLAIR: That's right.<br/> 17 MR. CAMPBELL: Okay.<br/> 18 You may answer that question.<br/> 19 <b>A. And the answer is no, we did not.</b><br/> 20 BY MS. CLAIR:<br/> 21 Q. Do you know why Kraft considered it, but<br/> 22 ended up not using it during that time period?<br/> 23 <b>A. Considered using it as a means to</b><br/> 24 <b>reduce volatility of the egg price and as a</b><br/> 25 <b>means to hedge against rising prices.</b></p>   | <p style="text-align: right;">105</p> <p>1 this other model because of the relative stability<br/> 2 of the egg pricing it was already using?<br/> 3 <b>A. I would say that's accurate.</b><br/> 4 Q. Okay. Essentially, it was Kraft's choice<br/> 5 to use the pricing model that it used?<br/> 6 <b>A. It was not only Kraft's choice, it was</b><br/> 7 <b>both Kraft and the supplier's agreed choice.</b><br/> 8 Q. Agreed.<br/> 9 <b>A. Agreed negotiated choice.</b><br/> 10 Q. That's probably a more accurate way to<br/> 11 describe it, if that makes sense.<br/> 12 <b>A. We did not dictate per se.</b><br/> 13 Q. Right.<br/> 14 <b>A. It was a negotiation between two parties.</b><br/> 15 Q. Could we turn briefly back to Exhibit 2,<br/> 16 which was a copy of the complaint. I've had a<br/> 17 couple of questions --<br/> 18 <b>A. This would be Manion 2?</b><br/> 19 Q. Manion 2.<br/> 20 <b>A. Okay.</b><br/> 21 Q. I'm trying to avoid too much moving<br/> 22 around.<br/> 23 <b>A. That's fine.</b><br/> 24 Q. It's just a little bit of hopping we have<br/> 25 to do.</p>  |

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| <p style="text-align: right;">106</p> <p>1 <b>A. Yeah.</b></p> <p>2 Q. I'm going to direct your attention to</p> <p>3 page 46 of the complaint, please.</p> <p>4 And on page 46 do you see a chart showing</p> <p>5 the Kraft allegation of the top 20 egg producers?</p> <p>6 MR. CAMPBELL: Which, incidentally,</p> <p>7 carries over to 47?</p> <p>8 MS. CLAIRE: Yes, it does.</p> <p>9 THE WITNESS: So I'm clear, this is the</p> <p>10 Kraft complaint, correct?</p> <p>11 MR. CAMPBELL: That's correct.</p> <p>12 THE WITNESS: Okay.</p> <p>13 BY MS. CLAIRE:</p> <p>14 Q. There's several complaints in this</p> <p>15 big case, so yes.</p> <p>16 <b>A. Got it. Okay. So yes, then I see that.</b></p> <p>17 <b>Yes.</b></p> <p>18 Q. Okay. Did Kraft buy egg products from any</p> <p>19 of the companies on this list other than Rose Acre</p> <p>20 and Michael Foods during this relevant time</p> <p>21 period?</p> <p>22 <b>A. Let's see. No.</b></p> <p>23 Q. Did Kraft receive proposals from any of</p> <p>24 these other companies during the relevant time</p> <p>25 period?</p>  | <p style="text-align: right;">108</p> <p>1 list that produce the specific types of liquid egg</p> <p>2 products that Kraft purchases?</p> <p>3 <b>A. Yes. If we were to provide our</b></p> <p>4 <b>specification to a number of liquid egg producers,</b></p> <p>5 <b>they could make the same formula.</b></p> <p>6 Q. And you mentioned that this list includes</p> <p>7 some shell-egg and some liquid-egg producers,</p> <p>8 right?</p> <p>9 <b>A. I believe so, yes.</b></p> <p>10 Q. Okay. Do some companies --</p> <p>11 <b>A. Some of these companies I'd have to</b></p> <p>12 <b>knowledge of though, so that --</b></p> <p>13 Q. Uh-huh.</p> <p>14 <b>A. So my assumption would be that some of</b></p> <p>15 <b>them are shell-egg producers.</b></p> <p>16 Q. Based on your knowledge of the market</p> <p>17 generally, do some companies not provide any</p> <p>18 egg products?</p> <p>19 <b>A. Yeah, there may be companies that do not</b></p> <p>20 <b>do further processing.</b></p> <p>21 Q. Uh-huh. Just they focus on shell eggs?</p> <p>22 <b>A. They process shell eggs, yes.</b></p> <p>23 Q. Are there some companies that don't sell</p> <p>24 any pasteurized egg products, they sell only</p> <p>25 unpasteurized egg products to your knowledge?</p> |
| <p style="text-align: right;">107</p> <p>1 <b>A. Relevant time period being 1999 to 2008?</b></p> <p>2 Q. That's correct.</p> <p>3 <b>A. I am not aware of the proposals that were</b></p> <p>4 <b>received.</b></p> <p>5 Q. You're not aware of any proposals received</p> <p>6 from these other companies during that time</p> <p>7 period?</p> <p>8 <b>A. Correct.</b></p> <p>9 Q. Okay. Are you aware of Kraft approaching</p> <p>10 any of these other companies during that relevant</p> <p>11 time period about purchasing egg products?</p> <p>12 <b>A. I am not.</b></p> <p>13 Q. To your knowledge, do any of these other</p> <p>14 companies even produce the specific type of eggs</p> <p>15 that Kraft needs to make its products that include</p> <p>16 eggs as an ingredient?</p> <p>17 <b>A. I know that this list is a mix of shell</b></p> <p>18 <b>egg producers and egg product producers or liquid</b></p> <p>19 <b>egg producers. I don't know the exact breakout of</b></p> <p>20 <b>which are which.</b></p> <p>21 <b>There are others on this list that produce</b></p> <p>22 <b>products that -- liquid egg products.</b></p> <p>23 Q. Produce some liquid egg products?</p> <p>24 <b>A. Yes.</b></p> <p>25 Q. Do you know that there are others in this</p> | <p style="text-align: right;">109</p> <p>1 <b>A. I don't know the answer to that. I don't</b></p> <p>2 <b>know the answer to that.</b></p> <p>3 Q. If there is such a company, could Kraft</p> <p>4 buy that product?</p> <p>5 <b>A. No. It's part of our specification that</b></p> <p>6 <b>the product is pasteurized.</b></p> <p>7 Q. Okay.</p> <p>8 MS. CLAIRE: Can we take a break?</p> <p>9 MR. CAMPBELL: If you want to --</p> <p>10 MS. CLAIRE: We could keep going, if you</p> <p>11 like.</p> <p>12 MR. CAMPBELL: Why don't we go until noon,</p> <p>13 if you don't mind, Katie, and then we can have</p> <p>14 lunch.</p> <p>15 MS. CLAIRE: That works fine, as long as</p> <p>16 you're doing all right?</p> <p>17 THE WITNESS: I might need to take a quick</p> <p>18 break.</p> <p>19 MR. CAMPBELL: Sure. Go ahead.</p> <p>20 MS. CLAIRE: That's fine. You're the boss</p> <p>21 of breaks.</p> <p>22 THE WITNESS: Yes. I'd like to take a</p> <p>23 quick restroom break.</p> <p>24 THE VIDEOGRAPHER: Going off the record at</p> <p>25 11:37 a.m.</p>  |

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| <p style="text-align: right;">110</p> <p>1 (Recess taken.)</p> <p>2 THE VIDEOGRAPHER: We're back on the</p> <p>3 record at 11:41 a.m.</p> <p>4 BY MS. CLAIR:</p> <p>5 Q. Mr. Manion, we're done with that complaint</p> <p>6 for now.</p> <p>7 What are some of the factors that affect</p> <p>8 the market price for eggs?</p> <p>9 <b>A. There is numerous factors that can impact</b></p> <p>10 <b>the price of eggs, supply, demand, increases or</b></p> <p>11 <b>decreases in demand.</b></p> <p>12 Q. Do feed prices impact the price of eggs?</p> <p>13 <b>A. It's an input cost, so it could input --</b></p> <p>14 <b>it could impact the price that a seller is willing</b></p> <p>15 <b>to sell eggs for.</b></p> <p>16 Q. Okay. What about fuel costs?</p> <p>17 <b>A. Again, it's another input cost to the</b></p> <p>18 <b>supplier, so if the supplier were to pass that</b></p> <p>19 <b>on in the selling price, that could impact, yeah.</b></p> <p>20 Q. What are some of the factors that affected</p> <p>21 demand for eggs during our relevant time period?</p> <p>22 <b>A. Well, I would say supply of eggs would</b></p> <p>23 <b>impact the price. I don't know specific, like,</b></p> <p>24 <b>you know, what happened in March that impacted --</b></p> <p>25 Q. Right, right. Yeah. It is a long time</p> | <p style="text-align: right;">112</p> <p>1 that's true?</p> <p>2 <b>A. I think this is the understanding of what</b></p> <p>3 <b>was the cause of egg prices going up at the time.</b></p> <p>4 Q. At the time this was created that was</p> <p>5 Kraft's understanding?</p> <p>6 <b>A. Yup. Yup.</b></p> <p>7 Q. And the next page titled "Industry</p> <p>8 Overview," the third row down, do you see where</p> <p>9 it says "Industry Cost Drivers"?</p> <p>10 <b>A. Yes.</b></p> <p>11 Q. And it lists grain at 60 percent. It</p> <p>12 says "Includes cost of Corn and Soybean meal for</p> <p>13 feed...." Do you see that?</p> <p>14 <b>A. I do.</b></p> <p>15 Q. What does that 60 percent mean?</p> <p>16 <b>A. It would be 60 percent of the cost of</b></p> <p>17 <b>producing an egg.</b></p> <p>18 Q. It comes from the grain?</p> <p>19 <b>A. It comes from the grain.</b></p> <p>20 Q. Okay.</p> <p>21 <b>A. Yup.</b></p> <p>22 Q. And processing 20 percent includes energy,</p> <p>23 transportation expenses. Do you see that?</p> <p>24 <b>A. Yes, I do.</b></p> <p>25 Q. Does that mean that 20 percent of the cost</p>   |
| <p style="text-align: right;">111</p> <p>1 period understandably.</p> <p>2 <b>A. Easter impacts the price of eggs because</b></p> <p>3 <b>more people buy eggs, and the price typically goes</b></p> <p>4 <b>up around that time.</b></p> <p>5 Q. Did you track at Kraft how even fads and</p> <p>6 diets affected the price of eggs or the demand for</p> <p>7 eggs?</p> <p>8 <b>A. I'm sure that that would be one aspect,</b></p> <p>9 <b>yup.</b></p> <p>10 Q. Did you track at Kraft how the Avian</p> <p>11 influenza virus affected the price of eggs during</p> <p>12 this relevant time period?</p> <p>13 <b>A. I don't know that we tracked specifically</b></p> <p>14 <b>what was impacting the price of eggs.</b></p> <p>15 Q. Okay. Let's look, if we could, back to</p> <p>16 what was Manion 3. Let's turn to the page that</p> <p>17 we were on before, which is the page ending in</p> <p>18 2862, please.</p> <p>19 <b>A. Uh-huh.</b></p> <p>20 Q. So at the very top in bold, the second</p> <p>21 sentence here says "Egg prices have risen sharply</p> <p>22 over the last year as a result of high grain and</p> <p>23 natural gas costs to producers." Do you see that?</p> <p>24 <b>A. Yes, I do.</b></p> <p>25 Q. Do you have any reason to doubt that</p>  | <p style="text-align: right;">113</p> <p>1 of the egg is attributable to those costs?</p> <p>2 <b>A. Yes. So these are just broad bucket,</b></p> <p>3 <b>you know, assumptions. There's probably many</b></p> <p>4 <b>line items that go into processing.</b></p> <p>5 Q. I understand. Would these be assumptions</p> <p>6 or would these be the best information Kraft had</p> <p>7 at the time that it was using and analyzing?</p> <p>8 <b>A. Yes. This would be, yes, this would be</b></p> <p>9 <b>the information that was gathered at the time.</b></p> <p>10 Q. Okay. Let's turn to the page ending in</p> <p>11 2866, please. This page is titled "Why Soybeans?"</p> <p>12 Right?</p> <p>13 It's page 7 at the bottom.</p> <p>14 <b>A. Yup. I've got it. Yup.</b></p> <p>15 Q. Okay. Here it says "95% of the price of</p> <p>16 eggs in the last 12 months can be explained by the</p> <p>17 changes in the price of soybeans?"</p> <p>18 <b>A. Yes, I see that.</b></p> <p>19 Q. Do you have any reason why that was</p> <p>20 Kraft's best analysis of --</p> <p>21 <b>A. This is information that came from the</b></p> <p>22 <b>commodities group. So I was not familiar with all</b></p> <p>23 <b>of the work that they did, but my assumption would</b></p> <p>24 <b>be that this is based under analysis.</b></p> <p>25 Q. Okay. There's no reason to think that</p> |

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| <p style="text-align: right;">114</p> <p>1 this isn't based on their analysis?</p> <p>2 <b>A. Correct. Yup.</b></p> <p>3 Q. And let's look at the next few pages,</p> <p>4 pages 9 and 10. Do you see those?</p> <p>5 <b>A. Yup.</b></p> <p>6 Q. You see we have some charts here, right?</p> <p>7 What do these charts show?</p> <p>8 <b>A. This shows the price of liquid whole eggs,</b></p> <p>9 <b>the price of soybeans, and the price of corn,</b></p> <p>10 <b>which would be that very faint line at the bottom</b></p> <p>11 <b>around --</b></p> <p>12 Q. I see that.</p> <p>13 <b>A. -- \$2 so.</b></p> <p>14 Q. That is difficult to see.</p> <p>15 <b>A. Yeah, but that's the third line there.</b></p> <p>16 Q. How would you describe the relationship in</p> <p>17 this chart between the price of liquid whole egg</p> <p>18 and the price of soybeans?</p> <p>19 <b>A. I would say that there's a correlation.</b></p> <p>20 Q. It looks like it pretty closely tracks</p> <p>21 the price of soybeans throughout this August 1999</p> <p>22 through May 2008 period, right?</p> <p>23 <b>A. Uh-huh.</b></p> <p>24 Q. Okay. And without revealing any</p> <p>25 confidential communications that you've had</p>   | <p style="text-align: right;">116</p> <p>1 Q. And this is titled "Industry: Historical</p> <p>2 Perspective," right?</p> <p>3 <b>A. Which page again?</b></p> <p>4 Q. Page 5 of the document.</p> <p>5 <b>A. Okay. Got it.</b></p> <p>6 Q. It looks like a chart. We see on the</p> <p>7 first column, on the first row "Cause" and the</p> <p>8 second row "Effect."</p> <p>9 <b>A. Uh-huh.</b></p> <p>10 Q. All right. That's the page. And this</p> <p>11 page it looks like Kraft is providing a historical</p> <p>12 overview of what it calls the "...many</p> <p>13 contributing factors that have brought the</p> <p>14 industry, and egg pricing, to where they are</p> <p>15 today." Is that right?</p> <p>16 <b>A. That's correct.</b></p> <p>17 Q. Okay. And this shows market forces</p> <p>18 playing out and affecting the supply and demand</p> <p>19 of eggs over this period, right?</p> <p>20 <b>A. Based on what we understand at the time,</b></p> <p>21 <b>yes. That's correct.</b></p> <p>22 Q. In the upper left of this chart, do you</p> <p>23 see where it notes "Animal Welfare groups pressure</p> <p>24 egg producers over inhumane treatment of" eggs?</p> <p>25 <b>A. "...of hens," yes.</b></p>   |
| <p style="text-align: right;">115</p> <p>1 with counsel -- I don't want to ask about anything</p> <p>2 about that -- do you know of any allegation in</p> <p>3 this case that defendants have conspired to fix</p> <p>4 the price of soybeans?</p> <p>5 <b>A. I have no knowledge of that.</b></p> <p>6 Q. Do you have knowledge of any allegation</p> <p>7 that defendants have conspired to fix the price of</p> <p>8 corn?</p> <p>9 <b>A. I have no knowledge of that.</b></p> <p>10 Q. Are you aware of egg producers having any</p> <p>11 ability to control the price of their feed inputs?</p> <p>12 <b>A. The egg suppliers have the ability to</b></p> <p>13 <b>control their input costs through hedge mechanisms</b></p> <p>14 <b>similar to what Kraft can use to hedge its grain</b></p> <p>15 <b>purchases.</b></p> <p>16 Q. Makes sense. And do egg suppliers, as a</p> <p>17 general matter, have an incentive to make their</p> <p>18 input costs higher or lower?</p> <p>19 <b>A. They would be incented to make their input</b></p> <p>20 <b>costs low.</b></p> <p>21 Q. Makes sense.</p> <p>22 Let's turn, please, to -- back a few pages</p> <p>23 to the page ending in 2864. That's page 5 of this</p> <p>24 document.</p> <p>25 <b>A. Yup.</b></p> | <p style="text-align: right;">117</p> <p>1 Q. Of hens. Thank you. That's under the</p> <p>2 "Cause."</p> <p>3 And under the "Effect" we see</p> <p>4 "UEP Guidelines enacted," is that right?</p> <p>5 <b>A. That's correct.</b></p> <p>6 Q. So is it Kraft's understanding at the time</p> <p>7 that it created this document that one of the</p> <p>8 causes of the UEP guidelines being enacted is</p> <p>9 animal welfare groups pressuring egg producers?</p> <p>10 <b>A. The interpretation is that the</b></p> <p>11 <b>UEP guidelines were created in response to</b></p> <p>12 <b>animal welfare groups pressuring egg producers</b></p> <p>13 <b>over inhumane treatment of hens.</b></p> <p>14 Q. Okay. And it discusses how UEP guidelines</p> <p>15 provided more space to laying hens, right?</p> <p>16 <b>A. That is correct. That was one aspect of</b></p> <p>17 <b>the guidelines.</b></p> <p>18 Q. Just one of them. That's right.</p> <p>19 And if we look over to the second column,</p> <p>20 what does the second column show happening to the</p> <p>21 supply of eggs?</p> <p>22 <b>A. As Kraft understood it, producers</b></p> <p>23 <b>increased the number of cages and increased</b></p> <p>24 <b>the supply of hens. And what happened was that</b></p> <p>25 <b>oversupply led to egg prices falling what we</b></p> |



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| <p style="text-align: right;">118</p> <p>1 <b>believed to be below farmers' costs. So a</b><br/> 2 <b>situation of oversupply based on increased amount</b><br/> 3 <b>of laying hens.</b><br/> 4 Q. What does this chart show the egg<br/> 5 producers did as a result of that oversupply?<br/> 6 <b>A. It's -- the assumption is that they began</b><br/> 7 <b>reducing laying stock, because laying stock is a</b><br/> 8 <b>reported number as a means of reducing costs, and</b><br/> 9 <b>in return reduced supply, which caused a rise in</b><br/> 10 <b>the price of eggs.</b><br/> 11 Q. And the bottom row there says "Supply is<br/> 12 reduced and prices start to rise as supply meets<br/> 13 demand," right?<br/> 14 <b>A. Correct.</b><br/> 15 Q. Does this show it's Kraft's understanding<br/> 16 that the market is getting back to a place where<br/> 17 supply is levelling out with demand?<br/> 18 <b>A. I don't know that that would necessarily</b><br/> 19 <b>be the case. Supply is reduced and the prices</b><br/> 20 <b>start to increase. So supply is meeting demand.</b><br/> 21 <b>Supply is meeting demand in either case. The --</b><br/> 22 <b>as we understand it, the supply is at a higher</b><br/> 23 <b>price.</b><br/> 24 Q. And it's --<br/> 25 <b>A. And this is a continuum. So we're looking</b></p> | <p style="text-align: right;">120</p> <p>1 Q. Okay. Finally --<br/> 2 <b>A. We're coming into 2008 I should also add.</b><br/> 3 Q. Yes. As we're going through this series<br/> 4 of cause and effects, we're moving forward in time<br/> 5 showing what's happening. Okay.<br/> 6 And the next column over do you see in<br/> 7 the top level it says "Farmers remain reluctant to<br/> 8 expand/re-model."<br/> 9 Is that partly because of -- is it Kraft's<br/> 10 understanding that they remain reluctant to do<br/> 11 that because they didn't want their prices to fall<br/> 12 below costs, like they had done earlier on, as we<br/> 13 saw in this chart?<br/> 14 <b>A. Yup.</b><br/> 15 Q. Okay. Let's move on to a few pages ahead,<br/> 16 the page ending in 71, that would be page 12 of<br/> 17 this document.<br/> 18 And here do you see under managing<br/> 19 supply and demand, the third bullet down says<br/> 20 "Learning the lessons of overexpansion, processors<br/> 21 do not see expansion as necessary." Right?<br/> 22 <b>A. Yes.</b><br/> 23 Q. What do you take that to mean?<br/> 24 <b>A. The lessons of overexpansion were a</b><br/> 25 <b>reduction in the price.</b></p>  |
| <p style="text-align: right;">119</p> <p>1 <b>at a continuum here. We're trying to explain</b><br/> 2 <b>what's going on in the marketplace.</b><br/> 3 Q. Uh-huh. And there are a lot of factors<br/> 4 here affecting what's going on in the marketplace<br/> 5 over this 6-year period, aren't there?<br/> 6 <b>A. This is our understanding at the time.</b><br/> 7 Q. Makes sense. Okay.<br/> 8 And one column over do you see a reference<br/> 9 to "Ethanol production driving corn prices higher"<br/> 10 and "Energy prices are also increasing"?<br/> 11 <b>A. Yup.</b><br/> 12 Q. Okay. And is Kraft understanding that<br/> 13 those increased input costs had the effect of --<br/> 14 that those factors had the effect of farmer's<br/> 15 input costs increasing, right?<br/> 16 <b>A. Correct. Yup.</b><br/> 17 Q. Okay.<br/> 18 <b>A. Increased -- corn is an input cost, energy</b><br/> 19 <b>prices are input costs to egg production. So the</b><br/> 20 <b>farmer's costs are rising.</b><br/> 21 Q. One column over we see that Kraft's<br/> 22 understanding was that "Price is passed onto the<br/> 23 consumer and eggs hit historic highs." Do you<br/> 24 see that?<br/> 25 <b>A. Yes.</b></p>   | <p style="text-align: right;">121</p> <p>1 Q. Uh-huh. Okay. And at the very bottom<br/> 2 under "Increasing Global Impact," do you see that<br/> 3 it says "The weak US Dollar has increased export<br/> 4 demand to EU and AP..."<br/> 5 So this is showing the weak US dollar as<br/> 6 one reason that exports were increasing; is that<br/> 7 right?<br/> 8 <b>A. Yes. So we were trying to make sense of</b><br/> 9 <b>why market dynamics were causing the price of eggs</b><br/> 10 <b>to increase. We were trying to make sense of</b><br/> 11 <b>that.</b><br/> 12 Q. And one of the factors you noted was the<br/> 13 weak US dollar, right?<br/> 14 <b>A. I mean, we surmise -- I mean, you can --</b><br/> 15 <b>regardless of category assume that a weaker</b><br/> 16 <b>US dollar, generally speaking, will bring European</b><br/> 17 <b>buyers to the US for product.</b><br/> 18 Q. And that's what Kraft noted was happening<br/> 19 here in the egg category, right?<br/> 20 <b>A. Again, we were trying to understand,</b><br/> 21 <b>based on the information that we had at the time,</b><br/> 22 <b>what could be the cause of egg prices increasing.</b><br/> 23 Q. Fair enough. So this is Kraft's best<br/> 24 understanding?<br/> 25 No one knows, right, of course, every</p> |



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| <p style="text-align: right;">122</p> <p>1 single factor that affects the economy?</p> <p>2 <b>A. Yup.</b></p> <p>3 Q. This is Kraft's best understanding that it</p> <p>4 used in conducting its business, right?</p> <p>5 <b>A. Correct, trying to explain.</b></p> <p>6 Q. Okay. And one more bullet here to talk</p> <p>7 about, which is right under managing supply and</p> <p>8 demand. It notes that "Processors are reluctant</p> <p>9 to expand operations and add more supply."</p> <p>10 And the next sentence says "Concerns</p> <p>11 exist about the regulatory environment, financing,</p> <p>12 ability to obtain permits to expand, et cetera."</p> <p>13 So is this listing some of the various</p> <p>14 reasons that egg producers may have been reluctant</p> <p>15 to expand supply as Kraft understood it?</p> <p>16 <b>A. At the time, yes.</b></p> <p>17 MS. CLAIR: Okay. I think we are through</p> <p>18 with that document.</p> <p>19 (Manion Deposition Exhibit No. 17</p> <p>20 marked for identification.)</p> <p>21 BY MS. CLAIR:</p> <p>22 Q. I'm going to hand you what we'll mark as</p> <p>23 Manion 17. Do you know what this document is,</p> <p>24 Mr. Manion?</p> <p>25 <b>A. Okay. So let me --</b></p>                                  | <p style="text-align: right;">124</p> <p>1 Q. Do you see that?</p> <p>2 Was it Kraft's understanding that</p> <p>3 Avian influenza decreased their number of layers</p> <p>4 in the US?</p> <p>5 <b>A. Where did you just read?</b></p> <p>6 Q. From the second paragraph here --</p> <p>7 <b>A. Yup.</b></p> <p>8 Q. -- that starts "Egg markets are</p> <p>9 responding..."</p> <p>10 <b>A. Okay. Got it.</b></p> <p>11 Q. And then moving into the second sentence</p> <p>12 there too. I want you to read that to yourself.</p> <p>13 What was Michael Kuntz saying about how</p> <p>14 Avian influenza affected supply in the egg market?</p> <p>15 <b>A. Well, if Avian influenza reduced the</b></p> <p>16 <b>population of laying hens, then he's drawing a</b></p> <p>17 <b>correlation that strong retail demand for</b></p> <p>18 <b>shell eggs is coming at a time when populations</b></p> <p>19 <b>are reduced.</b></p> <p>20 Q. Okay. Reduced due to the Avian influenza</p> <p>21 incident, at least in part?</p> <p>22 <b>A. In part.</b></p> <p>23 Q. Right. Okay. And he discusses</p> <p>24 Avian influenza further down in this document</p> <p>25 under "Pricing Factors." Do you see where he</p>   |
| <p style="text-align: right;">123</p> <p>1 MS. MARKOWITZ: Bates?</p> <p>2 MS. CLAIR: This is Bates labeled</p> <p>3 KRA0006025.</p> <p>4 <b>A. Okay. So this seems to be a communication</b></p> <p>5 <b>from Mike Kuntz, who was the category manager at</b></p> <p>6 <b>the time of the email.</b></p> <p>7 BY MS. CLAIR:</p> <p>8 Q. Okay.</p> <p>9 <b>A. It looks like a reforecast of our -- a</b></p> <p>10 <b>budget reforecast or some sort of budget revision</b></p> <p>11 <b>to the original budget or a reflection of market</b></p> <p>12 <b>change to the original budget.</b></p> <p>13 Q. Okay. And we talked about Mike Kuntz</p> <p>14 before. He was knowledgeable about Kraft's egg</p> <p>15 procurement during this 2004 time frame?</p> <p>16 <b>A. Yeah. He was responsible for the category</b></p> <p>17 <b>at the time.</b></p> <p>18 Q. Okay. So I'm going to draw your attention</p> <p>19 to the second paragraph here, the second -- where</p> <p>20 Michael Kuntz says "Egg markets are responding to</p> <p>21 strong retail demand for shell eggs. This demand</p> <p>22 comes at a time when layer populations are down</p> <p>23 from normal numbers (due to last year's Avian</p> <p>24 influenza incident.)"</p> <p>25 <b>A. Uh-huh.</b></p> | <p style="text-align: right;">125</p> <p>1 does that?</p> <p>2 <b>A. Yes, I do.</b></p> <p>3 <b>So is my -- my assumption would be that</b></p> <p>4 <b>there was an Avian influenza incident in the</b></p> <p>5 <b>United States and also in Asia. I'm not sure if</b></p> <p>6 <b>I'm interpreting it right.</b></p> <p>7 Q. Okay. Fair enough. Let's just say</p> <p>8 regardless of that because if you don't know it,</p> <p>9 let's not testify about it.</p> <p>10 Is Michael Kuntz noting that there's a</p> <p>11 potential for increased exports due to Avian</p> <p>12 influenza in Asia?</p> <p>13 <b>A. Yes.</b></p> <p>14 Q. Was that Kraft's understanding that one</p> <p>15 of the reasons that exports were increasing had to</p> <p>16 do with Avian influenza around this 2004 time</p> <p>17 frame at least?</p> <p>18 <b>A. He notes the potential for increased</b></p> <p>19 <b>exports. So it says "This softening assumes</b></p> <p>20 <b>minimal AI effects from current incidents,</b></p> <p>21 <b>domestically and in Asia."</b></p> <p>22 Q. Uh-huh.</p> <p>23 <b>A. And he lists a potential pricing factor,</b></p> <p>24 <b>which would be if there is an increase in exports</b></p> <p>25 <b>due to a continued Avian influenza in Asia. So it</b></p> |

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| <p style="text-align: right;">126</p> <p>1 <b>could be a factor.</b></p> <p>2 Q. That's fair. And I was actually about to</p> <p>3 correct my question, so you're right to note that.</p> <p>4 <b>A. Yeah.</b></p> <p>5 Q. He notes that that's what the relationship</p> <p>6 could be?</p> <p>7 <b>A. Could be a factor.</b></p> <p>8 Q. It makes sense. Could you look, please,</p> <p>9 again at the second paragraph of the document.</p> <p>10 The third sentence down reads "Although producers</p> <p>11 are repopulating their flocks, we will not see its</p> <p>12 affect to pricing until Q4." Do you see that?</p> <p>13 <b>A. Yes, I see it.</b></p> <p>14 Q. So Michael Kuntz is noting that in this</p> <p>15 time frame after some decrease in supply,</p> <p>16 Kraft was observing that producers took steps to</p> <p>17 increase their hen populations?</p> <p>18 <b>A. Uh-huh.</b></p> <p>19 Q. Okay. We're jumping down again. We're</p> <p>20 doing a lot of jumping around. I apologize.</p> <p>21 <b>A. That's okay.</b></p> <p>22 Q. Under "Pricing Factors" the fourth bullet</p> <p>23 down discusses "UEP's Animal Welfare program." Do</p> <p>24 you see that?</p> <p>25 <b>A. Yes, I do.</b></p>                                 | <p style="text-align: right;">128</p> <p>1 subject?</p> <p>2 MS. CLAIR: I am, yes.</p> <p>3 MR. CAMPBELL: Would now be a good time to</p> <p>4 take a lunch break, Katie?</p> <p>5 MS. CLAIR: That would be great. This</p> <p>6 would be a perfect time.</p> <p>7 THE VIDEOGRAPHER: Going off the record at</p> <p>8 12:11 p.m.</p> <p>9 (Lunch recess taken.)</p> <p>10 THE VIDEOGRAPHER: We are back on the</p> <p>11 record at 1:05 p.m.</p> <p>12 BY MS. CLAIR:</p> <p>13 Q. Mr. Manion, are animal welfare issues</p> <p>14 important to Kraft?</p> <p>15 <b>A. Yes, they are.</b></p> <p>16 Q. Why is that?</p> <p>17 <b>A. Well, we want -- we want animals to be</b></p> <p>18 <b>treated well during the process where they're</b></p> <p>19 <b>in -- where we're dealing with -- Kraft has an</b></p> <p>20 <b>animal welfare policy that is designed to treat</b></p> <p>21 <b>animals humanely during their process.</b></p> <p>22 Q. When did Kraft adopt that animal welfare</p> <p>23 policy?</p> <p>24 <b>A. There's been a number of different animal</b></p> <p>25 <b>welfare policies that are adopted in different</b></p>  |
| <p style="text-align: right;">127</p> <p>1 Q. And notes that "(Phase II increases cage</p> <p>2 space.)" Do you see that?</p> <p>3 <b>A. Yes.</b></p> <p>4 Q. Is it Kraft's understanding in this</p> <p>5 2004 time frame that the UEP's animal welfare</p> <p>6 program could have an effect on pricing of eggs?</p> <p>7 <b>A. I would say in conjunction with all of</b></p> <p>8 <b>these other factors.</b></p> <p>9 Q. So the UEP animal welfare program was one</p> <p>10 of several factors that in Kraft's understanding</p> <p>11 affected the price of eggs. Is that the</p> <p>12 testimony?</p> <p>13 <b>A. Restate, please.</b></p> <p>14 Q. When you said in conjunction with other</p> <p>15 factors, is it fair to say that the UEP animal</p> <p>16 welfare program was one of several factors that</p> <p>17 were all working together in the marketplace to</p> <p>18 affect the price of eggs?</p> <p>19 <b>A. I would say there's likely to be several</b></p> <p>20 <b>factors that could impact the price of eggs.</b></p> <p>21 Q. Okay. Mr. Manion, are animal welfare</p> <p>22 issues important to Kraft?</p> <p>23 MR. CAMPBELL: May I interject here?</p> <p>24 MS. CLAIR: Yes.</p> <p>25 MR. CAMPBELL: You're starting a new</p> | <p style="text-align: right;">129</p> <p>1 <b>categories, in the meat category, in the poultry</b></p> <p>2 <b>category, and in the egg category.</b></p> <p>3 <b>Over time as these -- as programs have</b></p> <p>4 <b>been developed by the industry, Kraft has adopted</b></p> <p>5 <b>those programs.</b></p> <p>6 Q. Who at Kraft had responsibility for animal</p> <p>7 welfare issues in our relevant time period?</p> <p>8 <b>A. Well, corporate affairs and predominantly</b></p> <p>9 <b>the meat procurement group because the meat,</b></p> <p>10 <b>you know, obviously animal welfare in the meat</b></p> <p>11 <b>categories is of importance to Kraft.</b></p> <p>12 Q. Is egg purchasing considered part of the</p> <p>13 meat procurement group?</p> <p>14 <b>A. It was from -- for a portion of the</b></p> <p>15 <b>relevant time period.</b></p> <p>16 Q. For other portions was it part of a</p> <p>17 different group?</p> <p>18 <b>A. It went to the ingredients group, yeah,</b></p> <p>19 <b>after it came from the meat group.</b></p> <p>20 Q. Okay.</p> <p>21 MS. CLAIR: I'll hand you what we'll mark</p> <p>22 as Manion 18.</p> <p>23 (Manion Deposition Exhibit No. 18</p> <p>24 marked for identification.)</p> <p>25 THE WITNESS: Thank you.</p> |

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| <p style="text-align: right;">130</p> <p>1 BY MS. CLAIR:</p> <p>2 Q. Mr. Manion, do you know what this document</p> <p>3 is?</p> <p>4 <b>A. "...Objections and Answers to Defendants'</b></p> <p>5 <b>Second Set of Interrogatories."</b></p> <p>6 BY MS. CLAIR:</p> <p>7 Q. Okay. And could we turn to page 3 with</p> <p>8 the interrogatory number 1, please?</p> <p>9 Interrogatory number 1 is asking, in</p> <p>10 general, for Kraft to identify who at Kraft was</p> <p>11 involved in promotion or consideration of animal</p> <p>12 welfare for hens, and the name of any animal</p> <p>13 welfare group within Kraft. Do you see that?</p> <p>14 <b>A. Uh-huh. Yes.</b></p> <p>15 Q. Okay. And let's turn to -- thank you.</p> <p>16 Let's turn to page 4 to Kraft's response</p> <p>17 to that question. In Kraft's response there</p> <p>18 are a number of names mentioned here that Kraft</p> <p>19 calls individuals "possibly possessing knowledge</p> <p>20 regarding and/or possessing records relevant to</p> <p>21 Plaintiff's promotion or consideration of animal</p> <p>22 welfare for hens..." Do you see that?</p> <p>23 <b>A. I do.</b></p> <p>24 Q. So let's talk about each of these people.</p> <p>25 Javier Meneses you mentioned before; what was his</p>            | <p style="text-align: right;">132</p> <p>1 <b>A. Yes. John would have the direct</b></p> <p>2 <b>relationship with the supplier, Jose might have</b></p> <p>3 <b>a more senior role with the supplier, but</b></p> <p>4 <b>certainly not necessarily the day-to-day role</b></p> <p>5 <b>with the supplier.</b></p> <p>6 Q. And what about William Paulos?</p> <p>7 <b>A. I believe he is Jose's supervisor. So</b></p> <p>8 <b>these are just up the chain of command in meat</b></p> <p>9 <b>procurement.</b></p> <p>10 Q. Okay. And what about Tim Knight?</p> <p>11 <b>A. I am not familiar with Tim Knight.</b></p> <p>12 Q. Okay. What about Curtis Amundson?</p> <p>13 <b>A. Yes, he is part of the meat group, and,</b></p> <p>14 <b>as I understand it, played a role in adopting or</b></p> <p>15 <b>creating animal welfare policies for Kraft.</b></p> <p>16 Q. Okay. And you look at the last sentence,</p> <p>17 Kraft notes that "...during the Relevant Time</p> <p>18 Period, there was no such Animal Welfare Group,</p> <p>19 and these individuals were not part of an Animal</p> <p>20 Welfare Group"?</p> <p>21 <b>A. That's correct.</b></p> <p>22 Q. Is that still -- that's a correct</p> <p>23 statement?</p> <p>24 <b>A. Yeah. To my understanding, we did not</b></p> <p>25 <b>have an animal welfare group at Kraft.</b></p> |
| <p style="text-align: right;">131</p> <p>1 role with respect to animal welfare?</p> <p>2 <b>A. Well, he would be the category manager who</b></p> <p>3 <b>managed the egg category.</b></p> <p>4 Q. And in that role he had responsibilities</p> <p>5 that had to do with animal welfare specifically?</p> <p>6 <b>A. Well, he would have responsibilities</b></p> <p>7 <b>managing the supplier relationships. So if</b></p> <p>8 <b>there was any, if there was any compliance to</b></p> <p>9 <b>animal welfare certifications or whatever,</b></p> <p>10 <b>he would be the responsible conduit back to</b></p> <p>11 <b>the supplier.</b></p> <p>12 Q. Okay. And what about John Gregorich, what</p> <p>13 would his relationship to animal welfare been?</p> <p>14 <b>A. Same, exact role.</b></p> <p>15 Q. Same?</p> <p>16 <b>A. Yeah.</b></p> <p>17 Q. And your name is listed?</p> <p>18 <b>A. Same, exact role.</b></p> <p>19 Q. Relationship with the suppliers.</p> <p>20 And what about Jose Rojo?</p> <p>21 <b>A. He is the director for meat processing</b></p> <p>22 <b>and commodities. So he was, I believe, I'm fairly</b></p> <p>23 <b>sure, John Gregorich's manager.</b></p> <p>24 Q. So he had a similar role as John Gregorich</p> <p>25 with respect to animal welfare?</p> | <p style="text-align: right;">133</p> <p>1 Q. Did you have an animal welfare task force?</p> <p>2 <b>A. I'm not absolutely certain if we did. We</b></p> <p>3 <b>probably had people that were working on animal</b></p> <p>4 <b>welfare issues, but I do not know if there was a</b></p> <p>5 <b>defined team per se.</b></p> <p>6 Q. Was that something that in preparation for</p> <p>7 your deposition today did you look into or educate</p> <p>8 yourself about whether Kraft had an animal welfare</p> <p>9 task force?</p> <p>10 <b>A. I know that certain individuals within</b></p> <p>11 <b>corporate affairs were involved with animal</b></p> <p>12 <b>welfare, but I don't know if there was a team</b></p> <p>13 <b>around it, no.</b></p> <p>14 Q. Okay. So let's turn -- we can put this</p> <p>15 one aside.</p> <p>16 <b>A. Okay.</b></p> <p>17 <b>(Manion Deposition Exhibit No. 19</b></p> <p>18 <b>marked for identification.)</b></p> <p>19 BY MS. CLAIR:</p> <p>20 Q. Let me hand you what we'll mark as</p> <p>21 Manion 19. Do you recognize this document,</p> <p>22 Mr. Manion?</p> <p>23 <b>A. I do not, no.</b></p> <p>24 Q. Okay. Do you see a Kraft logo at the top</p> <p>25 of this document?</p>   |

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| <p style="text-align: right;">134</p> <p>1 <b>A. Yes, I do. Yes.</b></p> <p>2 Q. Does that indicate to you this is a</p> <p>3 document that Kraft produced?</p> <p>4 <b>A. It would indicate to me that it's a</b></p> <p>5 <b>document that Kraft produced.</b></p> <p>6 Q. Okay. And, for the record, the Bates</p> <p>7 number is KRA19.</p> <p>8 And what is the date on the cover of this</p> <p>9 document?</p> <p>10 <b>A. 9/28/2012.</b></p> <p>11 Q. Okay. And let's -- and is there another</p> <p>12 date on the cover of this document as well?</p> <p>13 <b>A. April 2006.</b></p> <p>14 Q. Okay. You may not know this, Mr. Manion.</p> <p>15 Is it possible that the 9/28/2012 might have been</p> <p>16 a date generated when this document was collected</p> <p>17 and produced in the litigation, if you know?</p> <p>18 <b>A. The date -- perhaps a print date. I</b></p> <p>19 <b>couldn't tell you.</b></p> <p>20 Q. It's okay.</p> <p>21 <b>A. Yeah.</b></p> <p>22 Q. Okay. The title of this document is</p> <p>23 "Draft Animal Welfare Policy and Program</p> <p>24 Recommendation," right?</p> <p>25 <b>A. Yeah. Yes.</b></p>  | <p style="text-align: right;">136</p> <p>1 <b>A. Josephine Hunt, part of Scientific</b></p> <p>2 <b>Affairs, Claire Regan -- I'm not familiar with</b></p> <p>3 <b>Josephine.</b></p> <p>4 <b>Claire Regan, another individual in</b></p> <p>5 <b>Corporate Affairs; I'm not aware of her.</b></p> <p>6 Q. Okay.</p> <p>7 <b>A. Mike Sarachman from Scientific Affairs,</b></p> <p>8 <b>I'm not familiar with him, and then</b></p> <p>9 <b>Bill Sveum, Global Tech &amp; Quality, Scientific</b></p> <p>10 <b>Affairs; I've heard that name before, but I'm</b></p> <p>11 <b>not familiar with him.</b></p> <p>12 Q. Okay. Do you have any reason to doubt</p> <p>13 that this document was created by people who are</p> <p>14 knowledgeable about the topics that it discussed?</p> <p>15 <b>A. I have no doubt.</b></p> <p>16 Q. You may not know this, but, if you know,</p> <p>17 what decision making power did the Animal Welfare</p> <p>18 Task Force have?</p> <p>19 <b>A. And I don't know that.</b></p> <p>20 Q. Let's go to page 10 of the document,</p> <p>21 please; it's Bates labeled ending in 28.</p> <p>22 Just as a guidepost, this looks like it's</p> <p>23 the beginning of a section about "Guidelines,</p> <p>24 Requirements and Compliance for U.S. Suppliers and</p> <p>25 Newberry Turkey Facility." Does that seem right</p>     |
| <p style="text-align: right;">135</p> <p>1 Q. Let's look at page 2, please.</p> <p>2 <b>A. Yes.</b></p> <p>3 Q. Do you see on page 2 the document notes</p> <p>4 that "The recommendations in this document were</p> <p>5 developed by the Animal Welfare Task Force,"</p> <p>6 and then it lists the core members of the task</p> <p>7 force.</p> <p>8 <b>A. Yes, I see that.</b></p> <p>9 Q. Does that refresh your recollection at</p> <p>10 all about whether Kraft had some kind of working</p> <p>11 group that it called an animal welfare task force?</p> <p>12 <b>A. It appears so, yes.</b></p> <p>13 Q. Okay. And there are some names here,</p> <p>14 and some of them are ones we just discussed,</p> <p>15 Curt Amundson we just discussed, right?</p> <p>16 <b>A. Right. Yup.</b></p> <p>17 Q. As involved in developing policy with</p> <p>18 regard to animal welfare issues. Some of these</p> <p>19 other names are new.</p> <p>20 Who's Chris Beard?</p> <p>21 <b>A. These would be individuals -- let's see,</b></p> <p>22 <b>Chris Beard would be in Corporate Affairs.</b></p> <p>23 Q. Okay.</p> <p>24 <b>A. I'm not aware of who he or she is.</b></p> <p>25 Q. Okay.</p> | <p style="text-align: right;">137</p> <p>1 to you?</p> <p>2 <b>A. Yes.</b></p> <p>3 Q. Okay. And let's look at the next page as</p> <p>4 we get into that topic. Does this page contain</p> <p>5 the recommendations that this task force made for</p> <p>6 Kraft's animal welfare policy?</p> <p>7 <b>A. Yes.</b></p> <p>8 Q. And one of those recommendations was</p> <p>9 to adopt the guidelines for egg laying hens of</p> <p>10 the United Egg Producers; is that right?</p> <p>11 <b>A. That is correct.</b></p> <p>12 Q. Do you know why Kraft chose to adopt</p> <p>13 those standards as opposed to some other standards</p> <p>14 regarding animal welfare for egg-laying hens?</p> <p>15 <b>A. Well, based on the, based on the</b></p> <p>16 <b>guidelines that are -- that were recommended,</b></p> <p>17 <b>it appears that for each of the categories we have</b></p> <p>18 <b>taken guidelines that were generated or created</b></p> <p>19 <b>by the industry, the specific industry, turkey --</b></p> <p>20 <b>the National Turkey Federation.</b></p> <p>21 Q. Okay. Why did Kraft do that?</p> <p>22 <b>A. My assumption would be they are adopting</b></p> <p>23 <b>guidelines that are created by the industry that</b></p> <p>24 <b>understands the welfare and needs of that</b></p> <p>25 <b>particular category of animal.</b></p> |

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| <p style="text-align: right;">138</p> <p>1 Q. Okay. And if we look a little further<br/>2 down in this document, do you see a section called<br/>3 "Rationale"?<br/>4 <b>A. Yup.</b><br/>5 Q. And the second bullet do you see there<br/>6 says "Utilizing industry association guidelines<br/>7 (versus Kraft specific animal welfare guidelines)<br/>8 means that Kraft and its suppliers are following<br/>9 generally recognized industry standards."<br/>10 <b>A. Right.</b><br/>11 Q. So that has to do with what you've just<br/>12 discussed, right?<br/>13 <b>A. Yup.</b><br/>14 Q. Okay. And below that it says "By using<br/>15 external guidelines, we are able to ensure that<br/>16 as animal welfare expectations change and the<br/>17 subsequent guidelines change, both Kraft and its<br/>18 suppliers are keeping up with those expectations."<br/>19 <b>A. Yes.</b><br/>20 Q. Is that right?<br/>21 <b>A. Correct.</b><br/>22 Q. You understand that to mean that Kraft<br/>23 itself wouldn't have to follow every incremental<br/>24 development in animal welfare --<br/>25 <b>A. And revise its policy continually.</b></p> | <p style="text-align: right;">140</p> <p>1 of Chain Restaurants?<br/>2 <b>A. Yes.</b><br/>3 Q. Are you aware that FMI, Food Marketing<br/>4 Institute, and NCCR, the National Council,<br/>5 endorsed the United Egg Producers' Animal Welfare<br/>6 Guidelines?<br/>7 <b>A. I was not aware of that.</b><br/>8 Q. If you'd known that to be the case,<br/>9 would that have an effect one way or the other<br/>10 on your evaluation of those guidelines?<br/>11 MR. CAMPBELL: Objection, speculation.<br/>12 You can answer the question.<br/>13 THE WITNESS: Okay.<br/>14 <b>A. Would you rephrase again so I make sure<br/>15 I'm clear on it?</b><br/>16 BY MS. CLAIR:<br/>17 Q. Sure. Let me just ask you as Kraft's<br/>18 position, would the fact that the Food Marketing<br/>19 Institute and the NCCR endorse the United Egg<br/>20 Producers' animal welfare guidelines have an<br/>21 effect on Kraft's evaluation of those guidelines?<br/>22 MR. CAMPBELL: What's the verb? I'm<br/>23 sorry. I missed it.<br/>24 Can you read that back, Deralyn.<br/>25 (Record read.)</p> |
| <p style="text-align: right;">139</p> <p>1 Q. Periodically?<br/>2 <b>A. Yup.</b><br/>3 Q. It could rely on the industry to keep up<br/>4 that work, that effort?<br/>5 <b>A. Yup.</b><br/>6 Q. Did it make business sense for Kraft<br/>7 to follow an existing animal welfare policy<br/>8 as opposed to developing its own?<br/>9 <b>A. I would say yes.</b><br/>10 Q. It meant that Kraft didn't have to<br/>11 renegotiate the animal welfare issue with each<br/>12 customer, right?<br/>13 <b>A. Correct.</b><br/>14 Q. And it meant that Kraft didn't have to<br/>15 hire its own experts and scientists and reinvent<br/>16 the wheel when a policy already existed?<br/>17 <b>A. That's a fair statement, yes.</b><br/>18 Q. Okay. And were the industry standards<br/>19 generally seen as reliable?<br/>20 <b>A. My assumption would be yes.</b><br/>21 Q. Are you familiar with the Food Marketing<br/>22 Institute?<br/>23 <b>A. Not all of its activities, but yes,<br/>24 generally.</b><br/>25 Q. Are you familiar with the National Council</p>  | <p style="text-align: right;">141</p> <p>1 MR. CAMPBELL: Have effect on Kraft's<br/>2 evaluation. Okay. Fine. Thank you.<br/>3 <b>A. It could. It could.</b><br/>4 BY MS. CLAIR:<br/>5 Q. Okay. That's fair enough.<br/>6 Did Kraft's animal welfare policy include<br/>7 audits?<br/>8 <b>A. As I understand it, it would be the audit<br/>9 or certification from the appropriate group that<br/>10 would be the audit.</b><br/>11 Q. Rather than Kraft doing the audit?<br/>12 <b>A. Kraft would not audit.</b><br/>13 Q. Right. But did Kraft require its<br/>14 suppliers to be audited by the appropriate group?<br/>15 <b>A. As I understand, yes.</b><br/>16 Q. Okay.<br/>17 <b>A. Maintained their certification from.</b><br/>18 Q. Okay. I'm going to hand you what we'll<br/>19 mark as Manion 20.<br/>20 (Manion Deposition Exhibit No. 20<br/>21 marked for identification.)<br/>22 BY MS. CLAIR:<br/>23 Q. Is this an email from John Topinka?<br/>24 <b>A. Yes, it is.</b><br/>25 Q. And it's to several people at Kraft?</p>   |



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|---|--|
| <p style="text-align: right;">142</p> <p>1 <b>A. Yes, it is.</b></p> <p>2 Q. And who's John Topinka?</p> <p>3 <b>A. John Topinka is a person who works in</b></p> <p>4 <b>research and development for Kraft.</b></p> <p>5 MS. CLAIR: Okay. For the record, the</p> <p>6 Bates number is KRA0003479.</p> <p>7 BY MS. CLAIR:</p> <p>8 Q. Did John Topinka's responsibilities</p> <p>9 require him to be knowledgeable about animal</p> <p>10 welfare issues?</p> <p>11 <b>A. No.</b></p> <p>12 Q. Did they require him to be knowledgeable</p> <p>13 about Kraft's purchases of eggs?</p> <p>14 <b>A. Well, to the extent that he understood who</b></p> <p>15 <b>we were currently purchasing from, and in his role</b></p> <p>16 <b>in R&amp;D, he works with existing suppliers and new</b></p> <p>17 <b>suppliers.</b></p> <p>18 Q. Okay. Existing and new suppliers?</p> <p>19 <b>A. Yes.</b></p> <p>20 Q. Okay. What is his -- what does he do day</p> <p>21 to day with existing suppliers and new suppliers?</p> <p>22 <b>A. So he would work with -- he would work</b></p> <p>23 <b>with suppliers on new technologies and new</b></p> <p>24 <b>functionality of in this particular case egg</b></p> <p>25 <b>products.</b></p>   | <p style="text-align: right;">144</p> <p>1 enable competitive bids on our egg, right?</p> <p>2 <b>A. That's correct. That's what it says, yes.</b></p> <p>3 Q. Do you know whether he did go forward and</p> <p>4 work with Rose Acre on developing a competitive</p> <p>5 functional egg product?</p> <p>6 <b>A. And I do not know that.</b></p> <p>7 Q. Okay. Does Kraft --</p> <p>8 <b>A. My assumption would be that he did. It</b></p> <p>9 <b>says here that he is in the process of trying to</b></p> <p>10 <b>work with Rose Acre on the functional egg.</b></p> <p>11 Q. Okay. Is this one example of the</p> <p>12 competition that Kraft is able to benefit from</p> <p>13 in the purchase of egg products?</p> <p>14 <b>A. Well, it could be competition, it could be</b></p> <p>15 <b>capacity, it could be supply. It could be a</b></p> <p>16 <b>number of reasons.</b></p> <p>17 Q. Is it your understanding that the idea</p> <p>18 here was to only buy functional egg from either</p> <p>19 Michael Foods or Rose Acre, whoever offered the</p> <p>20 better package?</p> <p>21 <b>A. And from an R&amp;D perspective whoever was</b></p> <p>22 <b>able to create a functional egg product that</b></p> <p>23 <b>worked best in our products.</b></p> <p>24 Q. Perfect.</p> <p>25 <b>A. So.</b></p> |
| <p style="text-align: right;">143</p> <p>1 Q. Okay. And in this case it looks like he's</p> <p>2 discussing formulation development with functional</p> <p>3 egg from Michael Foods?</p> <p>4 <b>A. That is correct.</b></p> <p>5 Q. Is that research and development work on a</p> <p>6 new product?</p> <p>7 <b>A. On a new functional egg product, correct.</b></p> <p>8 Q. In the second sentence, he states that</p> <p>9 "We will be able to commercialize a product with</p> <p>10 functional egg from Michael Foods if they agree to</p> <p>11 be UEP certified within a year of...launch." Do</p> <p>12 you see that?</p> <p>13 <b>A. Yes.</b></p> <p>14 Q. So is he saying here that Kraft will only</p> <p>15 go forward with this product on the condition that</p> <p>16 Michael Foods will agree to become UEP certified</p> <p>17 within a year of launch?</p> <p>18 <b>A. It would indicate that he is aware of the</b></p> <p>19 <b>UEP certification guidelines, and that it would</b></p> <p>20 <b>be our expectation that if we were to do business</b></p> <p>21 <b>with Michael Foods, they would be UEP certified.</b></p> <p>22 Q. Okay. And the last sentence discusses</p> <p>23 R&amp;D working with Rose Acre to try to qualify</p> <p>24 functional egg from them, right?</p> <p>25 And he says that's happening in order to</p> | <p style="text-align: right;">145</p> <p>1 Q. Okay.</p> <p>2 MS. CLAIR: Let's take a look at what</p> <p>3 we'll mark as Manion 21.</p> <p>4 (Manion Deposition Exhibit No. 21</p> <p>5 marked for identification.)</p> <p>6 THE WITNESS: Thank you.</p> <p>7 BY MS. CLAIR:</p> <p>8 Q. And is this an email from Curtis Amundson</p> <p>9 we talked about before?</p> <p>10 <b>A. Yes, it is. Yes, it is.</b></p> <p>11 Q. Dated October 30, 2006?</p> <p>12 <b>A. Yes, it is.</b></p> <p>13 MS. CLAIR: For the record, the Bates</p> <p>14 number is KRA00016957.</p> <p>15 BY MS. CLAIR:</p> <p>16 Q. So Mr. Amundson here notes that "The</p> <p>17 approved animal welfare language for contract and</p> <p>18 purchase order use is written below," right?</p> <p>19 <b>A. Yes.</b></p> <p>20 Q. Was that the final animal welfare policy</p> <p>21 that Kraft had reached as of October 2006?</p> <p>22 <b>A. I believe so, yes. It's the same as in</b></p> <p>23 <b>one of the other documents provided.</b></p> <p>24 Q. It was a little bit of an earlier document</p> <p>25 for just a little bit later date?</p>  |

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| <p style="text-align: right;">146</p> <p>1 <b>A. Yup.</b></p> <p>2 Q. Okay.</p> <p>3 (Manion Deposition Exhibit No. 22</p> <p>4 marked for identification.)</p> <p>5 BY MS. CLAIR:</p> <p>6 Q. I'll hand you what we'll mark as</p> <p>7 Manion 22. Do you know what this document is?</p> <p>8 <b>A. No. This is the first time I'm seeing it</b></p> <p>9 <b>so.</b></p> <p>10 Q. Okay. Take a minute and take a look</p> <p>11 through it.</p> <p>12 <b>A. Uh-huh. Yup.</b></p> <p>13 MS. MARKOWITZ: Bates label?</p> <p>14 MS. CLAIR: KRA00042468.</p> <p>15 <b>A. Okay. I've read it.</b></p> <p>16 BY MS. CLAIR:</p> <p>17 Q. Okay. Is this a February 16, 2006, letter</p> <p>18 to Nick Meriggioli?</p> <p>19 <b>A. That is correct.</b></p> <p>20 Q. And his title here is listed as General</p> <p>21 Manager Oscar Mayer; is that a correct title for</p> <p>22 him at that time?</p> <p>23 <b>A. Yes. Yup.</b></p> <p>24 Q. Okay. And this is from Matthew Prescott</p> <p>25 of PETA. Do you see that?</p>  | <p style="text-align: right;">148</p> <p>1 <b>A. I do not.</b></p> <p>2 Q. Okay. The note says "Chris per Kraft</p> <p>3 policy we won't be responding to this, but wanted</p> <p>4 you to see," right?</p> <p>5 <b>A. Yes.</b></p> <p>6 Q. Do you know what Kraft policy is being</p> <p>7 referred to there?</p> <p>8 <b>A. That we typically do not respond to</b></p> <p>9 <b>letters from PETA would be my assumption.</b></p> <p>10 Q. Okay. Do you have any knowledge,</p> <p>11 other than assumption, about Kraft's policies</p> <p>12 about responses to this kind of letter?</p> <p>13 <b>A. I don't know if there is a -- I'm not</b></p> <p>14 <b>aware of a written response and how we would deal</b></p> <p>15 <b>with action groups like this.</b></p> <p>16 Q. Okay. So although it looks like Kraft</p> <p>17 is not responding, it looks like Syd wanted you</p> <p>18 to see, wanted Chris B. to see.</p> <p>19 So someone is forwarding this up the chain</p> <p>20 at Kraft; does that seem like what's going on</p> <p>21 here?</p> <p>22 <b>A. Fair. Yup.</b></p> <p>23 Q. Is that the right thing to do when a</p> <p>24 letter like this arrives?</p> <p>25 <b>A. Well, I think just letting the people</b></p>  |
| <p style="text-align: right;">147</p> <p>1 <b>A. Yes, I do see that.</b></p> <p>2 Q. Okay. So in the bold portion is</p> <p>3 PETA asking Oscar Mayer to fill out a</p> <p>4 questionnaire about animal welfare "...to help</p> <p>5 us gain a better understanding of Oscar Mayer's"</p> <p>6 animal welfare -- "current animal welfare policies</p> <p>7 and practices and any plans Oscar Mayer may have</p> <p>8 to move forward on this issue?"</p> <p>9 <b>A. Yes.</b></p> <p>10 Q. And Matthew Prescott notes that "The</p> <p>11 results of our program will be wildly publicized</p> <p>12 on both the Internet and to the media..." Right?</p> <p>13 <b>A. That is correct.</b></p> <p>14 Q. There's a handwritten note on the top that</p> <p>15 looks like it is "To: Chris From: Syd," S-y-d.</p> <p>16 Does that look right to you?</p> <p>17 <b>A. Yes, it does.</b></p> <p>18 Q. Do you think that Chris would be</p> <p>19 Chris Beard? I see "Chris B." at the top.</p> <p>20 <b>A. Yes, I do see that. I'm not -- since I</b></p> <p>21 <b>don't know Chris Beard --</b></p> <p>22 Q. You don't know?</p> <p>23 <b>A. Yeah, I don't know.</b></p> <p>24 Q. That's fine.</p> <p>25 Do you know who Syd is?</p> | <p style="text-align: right;">149</p> <p>1 <b>know that the letter has come. This has come to</b></p> <p>2 <b>the general manager of Oscar Mayer, so it's gone</b></p> <p>3 <b>pretty high up the chain to start with.</b></p> <p>4 Q. Uh-huh.</p> <p>5 <b>A. So I'm not sure if this letter is being</b></p> <p>6 <b>shared with folks in corporate affairs, but it</b></p> <p>7 <b>could be that.</b></p> <p>8 <b>If Chris B. is from corporate affairs,</b></p> <p>9 <b>a communication like this that would come to a</b></p> <p>10 <b>business units would be forwarded to corporate</b></p> <p>11 <b>affairs generally.</b></p> <p>12 Q. Do you know if Kraft received any other</p> <p>13 communications from PETA about animal welfare?</p> <p>14 <b>A. And I don't know that.</b></p> <p>15 Q. Was Kraft encouraged by the Humane Society</p> <p>16 to adopt any particular animal welfare practices?</p> <p>17 <b>A. I know that Kraft was contacted by The</b></p> <p>18 <b>Humane Society of the United States, yes.</b></p> <p>19 Q. Okay. Just --</p> <p>20 <b>A. And they encourage similar programs.</b></p> <p>21 Q. Uh-huh. Does that matter to Kraft when it</p> <p>22 receives encouragement from groups like PETA and</p> <p>23 The Humane Society?</p> <p>24 <b>A. I would say it matters to Kraft, yeah.</b></p> <p>25 Q. Is part of the reason it matters the large</p> |

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|---|--|
| <p style="text-align: right;">150</p> <p>1 number of members that those groups have?</p> <p>2 <b>A. Yes.</b></p> <p>3 Q. Is another part of the reason it matters</p> <p>4 the fact that those groups are very vocal in the</p> <p>5 media when they want to be?</p> <p>6 <b>A. Uh-huh. Yes.</b></p> <p>7 Q. Let's just take a look. Since we</p> <p>8 mentioned The Humane Society, let's look at what</p> <p>9 we'll mark as Manion 23.</p> <p>10 (Manion Deposition Exhibit No. 23</p> <p>11 marked for identification.)</p> <p>12 BY MS. CLAIR:</p> <p>13 Q. I'll just let you take a quick look at it</p> <p>14 for the moment.</p> <p>15 MS. MARKOWITZ: Bates label?</p> <p>16 MS. CLAIR: Bates label KRA00052823.</p> <p>17 <b>A. Okay. I've read it.</b></p> <p>18 BY MS. CLAIR:</p> <p>19 Q. Okay.</p> <p>20 <b>A. Yeah.</b></p> <p>21 Q. So is this a letter from someone named</p> <p>22 Katie Carrus? It looks like she works at</p> <p>23 The Humane Society based on the header. Does</p> <p>24 that seem right to you?</p> <p>25 <b>A. Yes.</b></p>  | <p style="text-align: right;">152</p> <p>1 Q. This is only a few months after that</p> <p>2 PETA letter we looked at, which was from</p> <p>3 February 2006?</p> <p>4 <b>A. Yes.</b></p> <p>5 Q. So it looks like here, unlike with</p> <p>6 PETA, Kraft did respond in some manner,</p> <p>7 at least returning this phone call, right?</p> <p>8 <b>A. Yes. It would indicate that, yes.</b></p> <p>9 Q. Was outreach by The Humane Society on</p> <p>10 animal welfare issues taken seriously by Kraft?</p> <p>11 <b>A. Yes, it was.</b></p> <p>12 Q. And why was it taken seriously?</p> <p>13 <b>A. I think Corporate Affairs wants to be</b></p> <p>14 <b>aware of what these groups are considering.</b></p> <p>15 Q. And when you say what these groups are</p> <p>16 considering, can you elaborate a bit on that?</p> <p>17 <b>A. In terms of what their recommendations</b></p> <p>18 <b>are, what their -- what they could plan to do.</b></p> <p>19 Q. And what are the kinds of things that they</p> <p>20 might plan to do?</p> <p>21 <b>A. Well, as stated in the PETA letter,</b></p> <p>22 <b>communicate broadly to their membership. It could</b></p> <p>23 <b>be the same type of thing.</b></p> <p>24 Q. Kraft would want to avoid bad PR --</p> <p>25 <b>A. Bad.</b></p> |
| <p style="text-align: right;">151</p> <p>1 Q. And this is to Chris Beard, who we talked</p> <p>2 about that before, right?</p> <p>3 <b>A. Yes.</b></p> <p>4 Q. On the second page you'll see there's a</p> <p>5 cc to Claire Regan, right?</p> <p>6 <b>A. Yes.</b></p> <p>7 Q. As we discussed before, Chris Beard and</p> <p>8 Claire Regan were both involved in that animal</p> <p>9 welfare task force, as we saw earlier, right?</p> <p>10 <b>A. Yes.</b></p> <p>11 Q. Okay. So take a look at the first</p> <p>12 sentence where Katie Carrus writes to Chris</p> <p>13 "Thanks so much for returning my call regarding</p> <p>14 Kraft's use of cage-free eggs."</p> <p>15 And she goes on "I'm looking forward to</p> <p>16 discussing the matter at greater length with you</p> <p>17 and Claire next week." Do you see that?</p> <p>18 <b>A. Yes, I do.</b></p> <p>19 Q. Are you aware of whether a followup</p> <p>20 discussion occurred?</p> <p>21 <b>A. I'm not aware of the specifics of any</b></p> <p>22 <b>followup discussion.</b></p> <p>23 Q. That's fine. Okay. And this is dated</p> <p>24 April 20, 2006, right?</p> <p>25 <b>A. Yes.</b></p> | <p style="text-align: right;">153</p> <p>1 Q. -- about animal welfare issues, right?</p> <p>2 <b>A. That's correct, or be linked to it.</b></p> <p>3 Q. Right. Right. So it makes business</p> <p>4 sense for Kraft to avoid that kind of linkage to</p> <p>5 bad public relations?</p> <p>6 <b>A. Or at least be able to answer to it.</b></p> <p>7 Q. Uh-huh. Okay.</p> <p>8 <b>A. To have a response to it.</b></p> <p>9 Q. Let's take a look at what we'll mark as</p> <p>10 Manion 24.</p> <p>11 (Manion Deposition Exhibit No. 24</p> <p>12 marked for identification.)</p> <p>13 BY MS. CLAIR:</p> <p>14 Q. So I'll let you just take a look at this</p> <p>15 document.</p> <p>16 <b>A. Yup.</b></p> <p>17 MS. MARKOWITZ: Bates label?</p> <p>18 MS. CLAIR: Bates label, thanks, KRA342.</p> <p>19 <b>A. Yup, I've read it.</b></p> <p>20 BY MS. CLAIR:</p> <p>21 Q. Okay. Does this appear to be an email</p> <p>22 chain and the top email is from Greg Hite dated</p> <p>23 May 21, 2007?</p> <p>24 <b>A. Yes.</b></p> <p>25 Q. And who's Greg Hite?</p>  |

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| <p style="text-align: right;">154</p> <p>1 <b>A. I am not sure who Greg Hite is.</b></p> <p>2 Q. Okay. Does Greg Hite work at Kraft?</p> <p>3 <b>A. My assumption would be that he works at</b></p> <p>4 <b>Kraft, yes.</b></p> <p>5 Q. Okay. This is to a Cathy Pernu. And it</p> <p>6 looks like below we see her title as --</p> <p>7 <b>A. Yup, Senior Manager North American Supply</b></p> <p>8 <b>Chain Communications.</b></p> <p>9 Q. At Kraft Food Global, Inc., right?</p> <p>10 <b>A. Yup.</b></p> <p>11 Q. Okay. Does she have a PR role? I see</p> <p>12 "communications" in that title.</p> <p>13 <b>A. My assumption would be yes.</b></p> <p>14 Q. Okay. So at the top of this email</p> <p>15 Greg writes "Kathy - response to your question</p> <p>16 about expectations for suppliers." Do you see</p> <p>17 that?</p> <p>18 <b>A. Yes.</b></p> <p>19 Q. And if you follow below, you can see her</p> <p>20 question. She says "This is deplorable, if true.</p> <p>21 What can we say about our expectations for</p> <p>22 suppliers."</p> <p>23 Is that the question that it looks like</p> <p>24 Greg is responding to here?</p> <p>25 <b>A. That is correct.</b></p>   | <p style="text-align: right;">156</p> <p>1 Q. And not only be aware of whether Kraft has</p> <p>2 a relationship with that supplier, but also be</p> <p>3 aware of, as Cathy Pernu writes, "What we can say</p> <p>4 about our expectations for suppliers," right?</p> <p>5 <b>A. Correct. Yup.</b></p> <p>6 Q. Was animal welfare important to Kraft's</p> <p>7 customer relations?</p> <p>8 <b>A. I don't know if I'm aware of the</b></p> <p>9 <b>importance of it with our customer relations.</b></p> <p>10 Q. And I mean that as opposed to we've been</p> <p>11 talking about public relations generally.</p> <p>12 <b>A. Right, right, yes.</b></p> <p>13 Q. Specific customer relations, you're less</p> <p>14 aware of that?</p> <p>15 <b>A. Less aware of, yes.</b></p> <p>16 Q. Okay. So you may not know the answer to</p> <p>17 this question, but I'll ask it anyway just in</p> <p>18 case. Let me go back to -- if I remember, this</p> <p>19 was the document -- pardon me. I'm having a bit</p> <p>20 of a --</p> <p>21 I'm going to be back to -- yes, you're on</p> <p>22 it -- the 2006 presentation.</p> <p>23 <b>A. Uh-huh.</b></p> <p>24 Q. This is the 2006 Draft Animal Welfare</p> <p>25 Presentation beginning with KRA19 for those on the</p> |
| <p style="text-align: right;">155</p> <p>1 Q. Okay. Why is Kraft's public relations</p> <p>2 personnel, like Cathy Pernu, interested in what</p> <p>3 animal welfare expectations Kraft has for its</p> <p>4 suppliers?</p> <p>5 <b>A. In the event that she was attempting</b></p> <p>6 <b>to formulate a response, public response, on</b></p> <p>7 <b>the part of Kraft would be my assumption based on</b></p> <p>8 <b>this.</b></p> <p>9 Q. Okay. I'm looking a little lower in the</p> <p>10 email chain. What was she responding to here?</p> <p>11 <b>A. It says "Attached is a link to a news</b></p> <p>12 <b>article citing House of Raeford of abuse to live</b></p> <p>13 <b>turkeys and chickens," including a video link.</b></p> <p>14 Q. Okay. It notes that "We currently do not</p> <p>15 have any contracts for poultry raw materials from</p> <p>16 House of Raeford nor have we purchased any raw</p> <p>17 materials from them this year." Is that right?</p> <p>18 <b>A. Yes. That's correct.</b></p> <p>19 Q. So even though there was some bad press</p> <p>20 about this House of Raeford company and Kraft did</p> <p>21 not purchase from this company, this was still</p> <p>22 something that Kraft felt the need to get ready</p> <p>23 to respond to, right?</p> <p>24 <b>A. Be aware of our relationship, if we have a</b></p> <p>25 <b>relationship with that supplier.</b></p> | <p style="text-align: right;">157</p> <p>1 phone.</p> <p>2 BY MS. CLAIR:</p> <p>3 Q. Okay. And let's look at the page ending</p> <p>4 in 22, please. That's page 4 of this document.</p> <p>5 And the fourth bullet down here says</p> <p>6 "Some customers are asking Kraft to ensure that</p> <p>7 the meat products they purchase come from animals</p> <p>8 which were treated humanely." Do you see that?</p> <p>9 <b>A. Yes, I do.</b></p> <p>10 Q. Do you know which customers those were?</p> <p>11 <b>A. I do not.</b></p> <p>12 Q. Okay. Do you know what responses Kraft --</p> <p>13 do you know how Kraft responded to any customer</p> <p>14 requests, even if you don't know which customers</p> <p>15 they were?</p> <p>16 <b>A. No.</b></p> <p>17 Q. Okay.</p> <p>18 (Manion Deposition Exhibit No. 25</p> <p>19 marked for identification.)</p> <p>20 BY MS. CLAIR:</p> <p>21 Q. I'm going to hand you what we'll mark as</p> <p>22 Manion 25.</p> <p>23 <b>A. Okay. Thank you.</b></p> <p>24 Q. And the document is Bates labeled</p> <p>25 KRA00046529.</p>   |

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|---|--|
| <p style="text-align: right;">158</p> <p>1 Mr. Manion, you'll see there's no heading</p> <p>2 on this document?</p> <p>3 <b>A. Yup.</b></p> <p>4 Q. I can represent to you that you were</p> <p>5 listed as the custodian of this document in the</p> <p>6 electronic information we received in cross</p> <p>7 production.</p> <p>8 Are you familiar with this document?</p> <p>9 <b>A. I don't believe that I am the author of</b></p> <p>10 <b>the document. I could have -- it could have been</b></p> <p>11 <b>sent to me, yeah.</b></p> <p>12 Q. Fair enough. Okay.</p> <p>13 If it was attached to an email, I would</p> <p>14 have provided that so.</p> <p>15 <b>A. Okay.</b></p> <p>16 Q. It wasn't here but...</p> <p>17 So I just want to talk about the second</p> <p>18 bullet here.</p> <p>19 <b>A. Yup.</b></p> <p>20 Q. Which notes that "UEP standards are</p> <p>21 based upon recommendations from an independent</p> <p>22 scientific advisory committee."</p> <p>23 <b>A. Okay.</b></p> <p>24 Q. Do you understand that to be the case?</p> <p>25 <b>A. I am not aware of that being the case. It</b></p>       | <p style="text-align: right;">160</p> <p>1 from requiring that its egg suppliers provide it</p> <p>2 with UEP certified egg products, did it?</p> <p>3 <b>A. State that again.</b></p> <p>4 Q. The fact that UEP certified products</p> <p>5 cost more than non-UEP certified egg products</p> <p>6 didn't stop Kraft from requiring its egg suppliers</p> <p>7 to sell those UEP certified products, did it?</p> <p>8 MR. CAMPBELL: Objection as to form.</p> <p>9 <b>A. No, it did not.</b></p> <p>10 <b>(Manion Deposition Exhibit No. 26</b></p> <p>11 <b>marked for identification.)</b></p> <p>12 BY MS. CLAIR:</p> <p>13 Q. I want you to look quickly at a document</p> <p>14 we've marked as Manion 26. The Bates label is</p> <p>15 KRA6162.</p> <p>16 I'll give you a minute to get familiar</p> <p>17 with it.</p> <p>18 <b>A. Yes, please. Yes?</b></p> <p>19 Q. Okay. So the part I'm interested in --</p> <p>20 this is a bit of a lengthy chain. The part I'm</p> <p>21 interested in is on page 3. There's an email from</p> <p>22 a Jason C. Taylor --</p> <p>23 <b>A. Yup.</b></p> <p>24 Q. -- dated August 17, '07. Do you see that?</p> <p>25 <b>A. Yes, I do.</b></p>                                  |
| <p style="text-align: right;">159</p> <p>1 <b>could be the case, but I'm not certain or know</b></p> <p>2 <b>the makeup of an independent scientific advisory</b></p> <p>3 <b>committee so.</b></p> <p>4 Q. Would -- go ahead. I'm sorry.</p> <p>5 <b>A. No. That's...</b></p> <p>6 Q. Would the people who are involved in</p> <p>7 Kraft's animal welfare task force know more about</p> <p>8 this than you?</p> <p>9 <b>A. They would probably know more, yes.</b></p> <p>10 Q. Would Curtis Amundson know more about this</p> <p>11 than you?</p> <p>12 <b>A. Potentially.</b></p> <p>13 Q. Potentially?</p> <p>14 <b>A. Potentially.</b></p> <p>15 Q. I want to talk about UEP certified egg</p> <p>16 products.</p> <p>17 <b>A. Yup.</b></p> <p>18 Q. Do you understand that to mean</p> <p>19 egg products that comply with United Egg</p> <p>20 Producers' animal welfare guidelines, right?</p> <p>21 <b>A. Yes.</b></p> <p>22 Q. Okay. Do UEP certified egg products cost</p> <p>23 more than noncertified egg products?</p> <p>24 <b>A. I believe they do.</b></p> <p>25 Q. And that increased price didn't stop Kraft</p> | <p style="text-align: right;">161</p> <p>1 Q. And Jason Taylor is identified here as</p> <p>2 Vice President of Sales, USA - Food Ingredients</p> <p>3 Division at Michael Foods, Inc.; is that right?</p> <p>4 <b>A. Yes.</b></p> <p>5 Q. This is an email to John Gregorich from</p> <p>6 Javier Meneses, right?</p> <p>7 <b>A. Yes.</b></p> <p>8 Q. Okay. It looks like Jason is providing</p> <p>9 what he calls MFI's review comments regarding the</p> <p>10 Kraft contract, right?</p> <p>11 <b>A. That is correct.</b></p> <p>12 Q. So it would be a communication during some</p> <p>13 negotiations of the contract?</p> <p>14 <b>A. Probably during negotiations, correct.</b></p> <p>15 Q. Okay. You'll note under where it lists</p> <p>16 Exhibit A, there are three bullets.</p> <p>17 <b>A. Yup.</b></p> <p>18 Q. Under the last bullet he notes that the</p> <p>19 "Product will not be UEP certified. However,</p> <p>20 MFI is currently in the transition stage to become</p> <p>21 UEP compliant by June 2008."</p> <p>22 <b>A. Uh-huh.</b></p> <p>23 Q. And finally notes that "There is a premium</p> <p>24 for UEP product," right?</p> <p>25 <b>A. Yes. That's what it says there, correct.</b></p> |



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| <p style="text-align: right;">162</p> <p>1 Q. That's what we talked about before. It</p> <p>2 was generally Kraft's understanding that it pays</p> <p>3 something of a premium or a higher price for a</p> <p>4 UEP certified egg product than a noncertified</p> <p>5 egg product, right?</p> <p>6 <b>A. Yes.</b></p> <p>7 Q. And Kraft is willing to pay that premium,</p> <p>8 right?</p> <p>9 <b>A. To the extent that it must, yes.</b></p> <p>10 Q. And Kraft, in fact, as we've gone through</p> <p>11 before, required its producers to provide it with</p> <p>12 certified egg product that was compliant with the</p> <p>13 UEP and the guidelines, didn't it?</p> <p>14 MR. CAMPBELL: Objection as to form.</p> <p>15 <b>A. I would think that Kraft has asked its</b></p> <p>16 <b>suppliers to comply with the guidelines that it</b></p> <p>17 <b>has created and was in a position to have to pay</b></p> <p>18 <b>a higher price by the suppliers.</b></p> <p>19</p> <p>20 BY MS. CLAIR:</p> <p>21 Q. Uh-huh. Would it make sense for Kraft</p> <p>22 to expect to pay -- to require its suppliers to</p> <p>23 provide it products that cost more to produce than</p> <p>24 other products and to not pay a little bit more</p> <p>25 for those products?</p> | <p style="text-align: right;">164</p> <p>1 Q. And in some instances there have been</p> <p>2 Kraft documents that we looked at earlier today</p> <p>3 where Kraft observed that that might reduce the</p> <p>4 number of hens that suppliers had at some points,</p> <p>5 right?</p> <p>6 <b>A. I guess if they reduced the size of</b></p> <p>7 <b>the flock in order to accommodate those space</b></p> <p>8 <b>requirements, that would affect supply.</b></p> <p>9 Q. Is that one way that the animal welfare</p> <p>10 guidelines could have an effect on the price of</p> <p>11 eggs?</p> <p>12 MR. MONICA: Objection to the form of the</p> <p>13 question.</p> <p>14 MR. CAMPBELL: You can answer though.</p> <p>15 MS. CLAIR: You can answer, if you know.</p> <p>16 <b>A. Could you restate it, please?</b></p> <p>17</p> <p>18 BY MS. CLAIR:</p> <p>19 Q. I might withdraw, because I think we've</p> <p>20 been over it before.</p> <p>21 <b>A. Okay.</b></p> <p>22 Q. That's fair enough.</p> <p>23 Kraft did go on and sign a contract with</p> <p>24 Michael Foods, right?</p> <p>25 <b>A. Yes.</b></p> |
| <p style="text-align: right;">163</p> <p>1 <b>A. It's not clear to me why there is a</b></p> <p>2 <b>premium on the product for following guidelines</b></p> <p>3 <b>that the suppliers themselves have set up. So it</b></p> <p>4 <b>is not clear to me why there is a premium placed</b></p> <p>5 <b>on UEP certified product.</b></p> <p>6 Q. Would others at Kraft be more</p> <p>7 knowledgeable about the reasons that the animal</p> <p>8 welfare program was associated with some cost</p> <p>9 increases?</p> <p>10 <b>A. Perhaps. I'm not certain.</b></p> <p>11 Q. Okay.</p> <p>12 <b>A. This is an industry -- guidelines that</b></p> <p>13 <b>the industry themselves created, and I'm not</b></p> <p>14 <b>certain why there is a price premium for</b></p> <p>15 <b>complying with the guidelines that they create</b></p> <p>16 <b>for themselves.</b></p> <p>17 Q. So, as we discussed before, supply is one</p> <p>18 of the factors that has an effect on egg price,</p> <p>19 right?</p> <p>20 <b>A. Yes.</b></p> <p>21 Q. And, as we've also discussed earlier</p> <p>22 today, the UEP animal welfare requirements were</p> <p>23 associated with increased space for each hen,</p> <p>24 right?</p> <p>25 <b>A. That's correct, yup.</b></p>           | <p style="text-align: right;">165</p> <p>1 Q. After this 2007 email?</p> <p>2 <b>A. Yes.</b></p> <p>3 Q. Right?</p> <p>4 As you saw before, that contract required</p> <p>5 Michael Foods to provide certified egg products,</p> <p>6 right?</p> <p>7 <b>A. That is correct.</b></p> <p>8 Q. Let's look at what we'll mark as</p> <p>9 Manion 27.</p> <p>10 (Manion Deposition Exhibit No. 27</p> <p>11 marked for identification.)</p> <p>12 BY MS. CLAIR:</p> <p>13 Q. Okay. This is KRA00026656. Is this an</p> <p>14 email from John Gregorich to Jose Rojo --</p> <p>15 <b>A. Yes.</b></p> <p>16 Q. -- on it's dated June 8, 2007, right?</p> <p>17 <b>A. That's correct.</b></p> <p>18 Q. Okay. And their email shows several</p> <p>19 attachments, right?</p> <p>20 There's a list of first attached, second</p> <p>21 at, third at and fourth at?</p> <p>22 <b>A. Yes. Correct.</b></p> <p>23 Q. Okay. So let's flip the page to the</p> <p>24 page ending in Bates number 26658. This is,</p> <p>25 I can represent to you, one of the attachments</p>   |

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| <p style="text-align: right;">166</p> <p>1 to that email as Kraft produced them as a group.<br/> 2 What is this document?<br/> 3 <b>A. 658?</b><br/> 4 Q. Yes.<br/> 5 <b>A. Ending in 658?</b><br/> 6 Q. Yes. It's the third page of this exhibit.<br/> 7 <b>A. Okay. This is a communication from</b><br/> 8 <b>Greg Hinton of Rose Acre stating that they are</b><br/> 9 <b>requesting an extension. "Would like to offer</b><br/> 10 <b>Kraft the option to renew the existing egg product</b><br/> 11 <b>supply agreement."</b><br/> 12 <b>The only change would be that they would</b><br/> 13 <b>change the price -- they would price the eggs</b><br/> 14 <b>off of the Urner Barry animal welfare certified</b><br/> 15 <b>market, so a different market than we spoke of</b><br/> 16 <b>earlier.</b><br/> 17 Q. Uh-huh. And they're doing that they note<br/> 18 "in order to meet Kraft's new animal welfare<br/> 19 requirements." Is that right?<br/> 20 <b>A. That's what it says there, yes.</b><br/> 21 Q. Okay. Let's look at the second paragraph<br/> 22 where Mr. Hinton discusses many changes, as he<br/> 23 calls them, in the case of producing eggs.<br/> 24 He notes "The rising feed prices have had<br/> 25 the largest impact on our cost of production." Do</p> | <p style="text-align: right;">168</p> <p>1 <b>to certified market..."</b><br/> 2 Q. Okay. And what is the final<br/> 3 recommendation reached in this strategy document?<br/> 4 <b>A. Extend the contract.</b><br/> 5 Q. And this is referring to the Rose Acre<br/> 6 contract that was discussed in this attached<br/> 7 letter, right?<br/> 8 <b>A. Correct.</b><br/> 9 Q. So even though Rose Acre is telling<br/> 10 Kraft that prices are going up, in part,<br/> 11 because Kraft's new animal welfare requirements<br/> 12 have caused some increase in production costs,<br/> 13 and even though Kraft itself in its own summary<br/> 14 acknowledges that costs will increase as a result<br/> 15 of moving to certified eggs, Kraft still chose to<br/> 16 contract with Rose Acre again, right?<br/> 17 MR. CAMPBELL: Objection as to form.<br/> 18 <b>A. To the extent that Rose Acre was the</b><br/> 19 <b>primary supplier of liquid eggs to Kraft, it</b><br/> 20 <b>appears as if at that particular time they</b><br/> 21 <b>decided to move forward.</b><br/> 22 BY MS. CLAIR:<br/> 23 Q. Okay. And Kraft did not make the decision<br/> 24 to rescind its animal welfare policy at this time,<br/> 25 did it?</p> |
| <p style="text-align: right;">167</p> <p>1 you see that?<br/> 2 <b>A. I do see that.</b><br/> 3 Q. And he goes on to say "Also complying with<br/> 4 the new UEP Animal Care Certified guidelines has<br/> 5 caused a decrease in our overall bird numbers and<br/> 6 resulted in an increase in production costs,"<br/> 7 right?<br/> 8 <b>A. That's correct. That's what it states.</b><br/> 9 Q. And let's look back at the previous page<br/> 10 of this exhibit, which ends in 57.<br/> 11 <b>A. Yup.</b><br/> 12 Q. This is another one of the attachments<br/> 13 to that email I can tell you. And this is called<br/> 14 "US Egg Contact Strategy 2007," right?<br/> 15 <b>A. Yup.</b><br/> 16 Q. Okay. The objective here -- this is a<br/> 17 Kraft document, right?<br/> 18 <b>A. Yes. It appears to be a Kraft document,</b><br/> 19 <b>correct.</b><br/> 20 Q. What is the objective listed here on this<br/> 21 "US Egg Contract Strategy 2007" document?<br/> 22 <b>A. Implement least cost strategy for US eggs</b><br/> 23 Q. Under "Key Points" what does the last<br/> 24 bullet indicate?<br/> 25 <b>A. "Cost increase (\$102,000,000) for moving</b></p>   | <p style="text-align: right;">169</p> <p>1 <b>A. Well, Kraft simply adopted the animal</b><br/> 2 <b>welfare policy that the industry itself had</b><br/> 3 <b>created.</b><br/> 4 Q. Uh-huh. Okay.<br/> 5 <b>A. Yup.</b><br/> 6 Q. And although it had some effect on the<br/> 7 price Kraft paid, all things being equal, the<br/> 8 route Kraft chose to go down was the route of<br/> 9 purchasing certified eggs, right?<br/> 10 <b>A. The route that Kraft chose was to continue</b><br/> 11 <b>to purchase from Rose Acre.</b><br/> 12 Q. And to continue -- and to require<br/> 13 Rose Acre to sell UEP certified eggs as a term of<br/> 14 its contract, right?<br/> 15 <b>A. Correct.</b><br/> 16 Q. Okay. Does Kraft continue to buy<br/> 17 UEP certified eggs?<br/> 18 <b>A. I'm not absolutely positive, but my</b><br/> 19 <b>assumption would be.</b><br/> 20 Q. Okay.<br/> 21 <b>A. So I would also like to add that this</b><br/> 22 <b>letter was dated May 30th for a contract scheduled</b><br/> 23 <b>to terminate June 30th.</b><br/> 24 Q. Uh-huh. Okay.<br/> 25 <b>A. It would not give Kraft much time to enact</b></p>   |

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| <p style="text-align: right;">170</p> <p>1 <b>any type of contingency plan. We have a month</b><br/> 2 <b>before the contract terminates. If that entered</b><br/> 3 <b>into the decision making process, it could have.</b><br/> 4 Q. Do you know whether Kraft reached out to<br/> 5 Rose Acre earlier than the date of this letter to<br/> 6 discuss any changes in the terms of their<br/> 7 commercial agreement?<br/> 8 <b>A. I do not know. I do not know.</b><br/> 9 <b>My assumption would be that they had, but</b><br/> 10 <b>I do not know for certain.</b><br/> 11 Q. What's the basis of that assumption?<br/> 12 <b>A. Kraft sent -- Kraft typically does</b><br/> 13 <b>not wait until such a large contract is set to</b><br/> 14 <b>terminate within 30 days to enact, you know,</b><br/> 15 <b>an extension.</b><br/> 16 Q. Kraft wasn't surprised by anything in<br/> 17 Rose Acre's letter, was it?<br/> 18 <b>A. I don't know -- I mean, I don't know</b><br/> 19 <b>if I can speak for John Gregorich, but I'm not,</b><br/> 20 <b>I'm not certain that Kraft believed that the</b><br/> 21 <b>UEP guidelines would cause a reduction in the</b><br/> 22 <b>overall supply of eggs.</b><br/> 23 Q. Okay. You're not certain that was -- that<br/> 24 Kraft believed that. Okay.<br/> 25 <b>A. Yeah.</b></p> | <p style="text-align: right;">172</p> <p>1 MR. CAMPBELL: All right. John, do you<br/> 2 have some questions?<br/> 3 MR. MONICA: I do.<br/> 4 (Discussion held off the<br/> 5 record.)<br/> 6 EXAMINATION<br/> 7 BY MR. MONICA:<br/> 8 Q. Good afternoon. My name is John Monica,<br/> 9 and I'm an attorney at Porter Wright Morris &amp;<br/> 10 Arthur in Washington, and I represent Rose Acre<br/> 11 Farms, Inc. I have a few questions for you.<br/> 12 Thanks for being patient. Let me go ahead and ask<br/> 13 them.<br/> 14 If you don't understand something I've<br/> 15 asked, please let me know, because I want to try<br/> 16 to be clear and get clear answers from you.<br/> 17 Mr. Manion, do you know why Kraft has sued<br/> 18 my client, Rose Acre Farms, Inc.?<br/> 19 MR. CAMPBELL: I object and instruct the<br/> 20 witness not to answer that question on the grounds<br/> 21 of privilege to the extent his answer would be<br/> 22 based on communications with counsel.<br/> 23 If you -- Mr. Manion, if you have any<br/> 24 knowledge other than that based upon<br/> 25 communications with counsel, you're free to</p>   |
| <p style="text-align: right;">171</p> <p>1 Q. Does Kraft participate in the<br/> 2 Food Marketing Institute that we talked about<br/> 3 earlier?<br/> 4 <b>A. I'm not certain. We may. We probably do</b><br/> 5 <b>as a large CPG company.</b><br/> 6 Q. What is CPG?<br/> 7 <b>A. Consumer package goods.</b><br/> 8 Q. Okay. Are you familiar with someone named<br/> 9 Steven Hill at Kraft?<br/> 10 <b>A. Yes.</b><br/> 11 Q. What is Steven Hill's position?<br/> 12 <b>A. He's in R&amp;D.</b><br/> 13 Q. R&amp;D.<br/> 14 Is Steven Hill involved with the Board of<br/> 15 the Food Marketing Institute?<br/> 16 <b>A. And I don't know that.</b><br/> 17 Q. You don't know. Okay. That's fine.<br/> 18 <b>A. I don't know.</b><br/> 19 Q. Do you know whether any Kraft personnel<br/> 20 attended FMI meetings at all during the relevant<br/> 21 time period?<br/> 22 <b>A. And I don't -- no, I don't know the answer</b><br/> 23 <b>to that.</b><br/> 24 MS. CLAIR: Okay. That's fine. That's<br/> 25 all I have right now.</p>  | <p style="text-align: right;">173</p> <p>1 answer Mr. Monica's question.<br/> 2 <b>A. I have no knowledge outside of</b><br/> 3 <b>communication with counsel.</b><br/> 4 BY MR. MONICA:<br/> 5 Q. You'd agree, would you not, that Kraft<br/> 6 still does substantial business with Rose Acre?<br/> 7 <b>A. As I understand, yes.</b><br/> 8 Q. Who would be the best person for me to<br/> 9 talk to, or I should say depose, at Kraft<br/> 10 regarding its current business relationship<br/> 11 with Rose Acre, if you know?<br/> 12 <b>A. And I am not exactly sure who the</b><br/> 13 <b>individual is at Kraft who's responsible for the</b><br/> 14 <b>egg category at this point.</b><br/> 15 Q. Okay. Who was the last -- do you know a<br/> 16 person who was last responsible for that -- had<br/> 17 that responsibility?<br/> 18 <b>A. The last person that I'm aware of is</b><br/> 19 <b>Barb McWilliams.</b><br/> 20 Q. Okay. And you're not sure if she's still<br/> 21 there or did she move on?<br/> 22 <b>A. She is still at Kraft, I know that. I am</b><br/> 23 <b>not sure if she still manages the egg category.</b><br/> 24 <b>She managed it after -- she managed it after I</b><br/> 25 <b>left the ingredients group.</b></p> |

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| <p style="text-align: right;">174</p> <p>1 Q. Okay. Thank you.</p> <p>2 <b>A. Uh-huh.</b></p> <p>3 Q. Do you know if the egg products that</p> <p>4 Kraft currently purchases from Rose Acre Farms</p> <p>5 are UEP certified?</p> <p>6 <b>A. My assumption is that they are, and they</b></p> <p>7 <b>were when I managed the category.</b></p> <p>8 Q. And, as you sit here -- there today,</p> <p>9 you have no reason to believe they are not</p> <p>10 UEP certified. Would that be fair to say?</p> <p>11 <b>A. That would be fair.</b></p> <p>12 Q. Do you know when approximately Kraft began</p> <p>13 purchasing UEP certified eggs from Rose Acre -- I</p> <p>14 should say -- strike that. I should have said</p> <p>15 eggs.</p> <p>16 Sir, do you know when approximately</p> <p>17 Kraft began purchasing certified egg products from</p> <p>18 Rose Acre?</p> <p>19 <b>A. I believe Rose Acre Farm was UEP certified</b></p> <p>20 <b>in the 2005 or 2006 time frame. So it would be</b></p> <p>21 <b>within that time frame would be my assumption.</b></p> <p>22 Q. Let me push that a little bit to see if I</p> <p>23 can clarify it.</p> <p>24 So would it be fair to say that as soon</p> <p>25 as Rose Acre began selling UEP certified eggs and</p>   | <p style="text-align: right;">176</p> <p>1 prior to 2005?</p> <p>2 <b>A. I do not know that.</b></p> <p>3 Q. Okay. Since 2005 do you know if Kraft has</p> <p>4 ever purchased egg products from any supplier that</p> <p>5 have not been UEP certified?</p> <p>6 <b>A. Yes.</b></p> <p>7 Q. And who were those suppliers?</p> <p>8 <b>A. There are two suppliers that provided us</b></p> <p>9 <b>a very small amount of eggs, Henningsen Foods and</b></p> <p>10 <b>Oskaloosa Foods. I believe it's Oskaloosa Foods</b></p> <p>11 <b>or Oskaloosa Farms.</b></p> <p>12 Q. And were these small amounts of egg</p> <p>13 products?</p> <p>14 <b>A. They were small amounts of egg products.</b></p> <p>15 <b>They were legacy suppliers that we inherited with</b></p> <p>16 <b>the acquisition of Nabisco.</b></p> <p>17 Q. To your knowledge, has Kraft ever</p> <p>18 switched any of its egg product supply</p> <p>19 contracts with Rose Acre to a noncertified --</p> <p>20 non-UEP certified producer?</p> <p>21 <b>A. Not to my knowledge.</b></p> <p>22 Q. Have you ever reviewed UEP's 2006 animal</p> <p>23 husbandry guidelines?</p> <p>24 <b>A. I may have reviewed them very early on</b></p> <p>25 <b>in me taking responsibility for the category, and</b></p>   |
| <p style="text-align: right;">175</p> <p>1 egg products, Kraft began purchasing those</p> <p>2 certified eggs and egg products from Rose Acre,</p> <p>3 whenever that date was?</p> <p>4 <b>A. My understanding of the program is that</b></p> <p>5 <b>an entire operation would be certified, not a</b></p> <p>6 <b>portion of the operation.</b></p> <p>7 <b>I may have that incorrect, but if my</b></p> <p>8 <b>understanding of the program is correct, the</b></p> <p>9 <b>UEP certification is for the entire manufacturing</b></p> <p>10 <b>site.</b></p> <p>11 <b>Therefore, if a manufacturing plant was</b></p> <p>12 <b>UEP certified, then the output of that plant would</b></p> <p>13 <b>be UEP certified. That's my understanding of the</b></p> <p>14 <b>certification process.</b></p> <p>15 Q. Okay. With that understanding is it</p> <p>16 fair to say that when Rose Acre first became</p> <p>17 UEP certified, Kraft began purchasing certified</p> <p>18 product from Rose Acre, to the best of your</p> <p>19 knowledge?</p> <p>20 <b>A. Yes, I believe that's what I said earlier.</b></p> <p>21 Q. Well, you said 2005, 2006. I'm not sure</p> <p>22 that that's the right time frame. So that's why</p> <p>23 I have the followup question.</p> <p>24 <b>A. Understood.</b></p> <p>25 Q. Do you know if Rose Acre was UEP certified</p> | <p style="text-align: right;">177</p> <p>1 <b>this would be in 2008.</b></p> <p>2 Q. Okay. Have you ever had direct contact</p> <p>3 with anyone at Rose Acre Farms?</p> <p>4 <b>A. Yes.</b></p> <p>5 Q. And have you ever had anyone -- have you</p> <p>6 ever had direct contact with anyone at Rose Acre</p> <p>7 Farms regarding animal welfare issues?</p> <p>8 <b>A. From the time -- personal from the time --</b></p> <p>9 <b>Q. Yes.</b></p> <p>10 <b>A. From the time I managed the category,</b></p> <p>11 <b>Rose Acre Farms was a UEP certified supplier, and</b></p> <p>12 <b>outside of them maintaining their</b></p> <p>13 <b>UEP certification, we had no communications with</b></p> <p>14 <b>them concerning animal welfare issues because they</b></p> <p>15 <b>were, as we understood it, UEP certified.</b></p> <p>16 <b>So that would be the only parameter that</b></p> <p>17 <b>we would -- that would be the only thing that we</b></p> <p>18 <b>would need to discuss with them, was their</b></p> <p>19 <b>certification.</b></p> <p>20 Q. So if I can just -- so my understanding</p> <p>21 is straight, your discussions with Rose Acre</p> <p>22 during the time -- during that time period would</p> <p>23 have been, on animal welfare issues, would have</p> <p>24 been simply whether or not they had maintained</p> <p>25 their UEP certification -- certified status?</p> |

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| <p style="text-align: right;">178</p> <p>1 <b>A. Correct.</b></p> <p>2 Q. Did you ever discuss the details of the</p> <p>3 UEP certified program with anyone at Rose Acre?</p> <p>4 <b>A. Yes.</b></p> <p>5 Q. And who did you have those discussions</p> <p>6 with?</p> <p>7 <b>A. I had regular contact -- my regular</b></p> <p>8 <b>contact was Greg Hinton.</b></p> <p>9 Q. And what discussions regarding the details</p> <p>10 of the UEP certified program did you have with</p> <p>11 Mr. Hinton, if any?</p> <p>12 <b>A. I'm thinking back close to 6 years now, so</b></p> <p>13 <b>forgive me for pausing here.</b></p> <p>14 Q. No, take as long as you need. I know it's</p> <p>15 been awhile.</p> <p>16 <b>A. Yeah. I would say conversations around</b></p> <p>17 <b>pricing, around maintaining certified status.</b></p> <p>18 <b>Those are, those are two things that come to mind.</b></p> <p>19 Q. When you say pricing, what discussions</p> <p>20 with Mr. Hinton did you have regarding pricing as</p> <p>21 it relates to the UEP certified program, if any,</p> <p>22 that you can recall?</p> <p>23 <b>A. At the time that I managed the category in</b></p> <p>24 <b>2008, egg pricing was at, if not at, historic</b></p> <p>25 <b>highs.</b></p>  | <p style="text-align: right;">180</p> <p>1 size, do you?</p> <p>2 <b>A. Other than what communication was provided</b></p> <p>3 <b>by Rose Acre.</b></p> <p>4 Q. And what did Rose Acre say about that, if</p> <p>5 anything?</p> <p>6 <b>A. That they would need to reduce their</b></p> <p>7 <b>flock size because they need more cage space for</b></p> <p>8 <b>the birds.</b></p> <p>9 <b>So as an outcome of reducing flock size</b></p> <p>10 <b>or as an outcome of providing the birds more cage</b></p> <p>11 <b>space, it reduces the flock size within that</b></p> <p>12 <b>particular cage.</b></p> <p>13 Q. And during this same time frame, did</p> <p>14 anyone at Rose Acre, including Mr. Hinton,</p> <p>15 also explain to you or anyone else at Kraft</p> <p>16 that Rose Acre was building new facilities and</p> <p>17 increasing their actual flock size?</p> <p>18 <b>A. I was aware of the fact that they were</b></p> <p>19 <b>building a new facility I believe in Texas. I</b></p> <p>20 <b>could be wrong on the -- where the facility was</b></p> <p>21 <b>to be built.</b></p> <p>22 Q. You were aware during this time frame that</p> <p>23 they were, in fact, increasing their flock size?</p> <p>24 MR. CAMPBELL: Objection as to form.</p> <p>25 <b>A. I did understand that they were expanding.</b></p> |
| <p style="text-align: right;">179</p> <p>1 <b>We had conversations about trying to</b></p> <p>2 <b>understand what was causing market pricing to be</b></p> <p>3 <b>what it was.</b></p> <p>4 Q. Are you finished, sir?</p> <p>5 <b>A. Just trying to understand what market</b></p> <p>6 <b>conditions were causing pricing to be where it</b></p> <p>7 <b>was.</b></p> <p>8 Q. And did UEP come up in that context of</p> <p>9 that discussion with Mr. Hinton?</p> <p>10 <b>A. It may have. I can't remember the</b></p> <p>11 <b>specifics.</b></p> <p>12 Q. Do you recall ever having a discussion</p> <p>13 with Mr. Hinton about how the UEP program may,</p> <p>14 in fact, be increasing prices charged to Kraft?</p> <p>15 <b>A. Well, to the extent that we were being</b></p> <p>16 <b>priced off of a UEP certified market, to the</b></p> <p>17 <b>extent that UEP guidelines were reducing flock</b></p> <p>18 <b>size.</b></p> <p>19 <b>Again, we were trying to make sense of</b></p> <p>20 <b>why the price of eggs had over doubled at the</b></p> <p>21 <b>time. So we probably had many conversations</b></p> <p>22 <b>trying to understand that.</b></p> <p>23 Q. But, as you sit here today, you don't</p> <p>24 have any facts, to your knowledge, to support the</p> <p>25 contention that the UEP guidelines reduced flock</p> | <p style="text-align: right;">181</p> <p>1 BY MR. MONICA:</p> <p>2 Q. And by -- when you say expanding, that</p> <p>3 includes increasing the number of egg-laying hens</p> <p>4 that they owned, correct?</p> <p>5 <b>A. Yeah. My assumption would be if they</b></p> <p>6 <b>were building a new facility, that they would be</b></p> <p>7 <b>expand -- they would be putting hens in that</b></p> <p>8 <b>facility.</b></p> <p>9 MR. MONICA: Okay. Thank you, Mr. Manion.</p> <p>10 Those are all of the questions that I have subject</p> <p>11 to possible questioning, if anyone else asks you</p> <p>12 additional questions from this point forward.</p> <p>13 Thank you.</p> <p>14 MR. CAMPBELL: Are there any other</p> <p>15 questions?</p> <p>16 MS. MARKOWITZ: I'd like to review my</p> <p>17 notes before saying that. Can we take a 10- or</p> <p>18 15-minute break?</p> <p>19 MR. CAMPBELL: I guess we have no choice.</p> <p>20 MS. MARKOWITZ: Okay. Thank you. I'll</p> <p>21 try and make it as quick as I can.</p> <p>22 THE VIDEOGRAPHER: Going off the record at</p> <p>23 2:31 a.m.</p> <p>24 (Recess taken.)</p> <p>25 THE VIDEOGRAPHER: We're back on the</p>  |



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| <p style="text-align: right;">182</p> <p>1 record at 2:43 p.m.<br/> 2 EXAMINATION<br/> 3 BY MR. CAMPBELL:<br/> 4 Q. Mr. Manion, do you recall defendant's<br/> 5 counsel asked you if you had sought requests from<br/> 6 Sparboe and Rembrandt?<br/> 7 <b>A. Yes.</b><br/> 8 Q. And you said yes.<br/> 9 But she prefaced that question by asking<br/> 10 during the relevant period.<br/> 11 During the relevant period, which is 2008,<br/> 12 1999 to 2008, did you have contact with Sparboe or<br/> 13 Rembrandt?<br/> 14 <b>A. No.</b><br/> 15 Q. Okay. Would you -- I show you what is<br/> 16 marked as Manion Exhibit 11, which is a supply<br/> 17 agreement between Kraft and Rose Acre. Do you<br/> 18 recall you were shown that document?<br/> 19 <b>A. Yes.</b><br/> 20 Q. It's right here, Scott.<br/> 21 And counsel for defendant asked, referring<br/> 22 to Exhibit A --<br/> 23 I think that's it, is it not?<br/> 24 <b>A. This is Exhibit A, yes.</b><br/> 25 Q. Yeah.</p>   | <p style="text-align: right;">184</p> <p>1 Q. Is there any mention of the Urner Barry<br/> 2 certified market index in Exhibit 14, your<br/> 3 contract with Michael Foods?<br/> 4 <b>A. No.</b><br/> 5 Q. Do you recall you were asked a series<br/> 6 of questions about when you first considered a<br/> 7 grain-based index? Do you recall that?<br/> 8 <b>A. Yes.</b><br/> 9 Q. When did you first consider it?<br/> 10 And I emphasize the word consider it as<br/> 11 opposed to adopting a grain based?<br/> 12 <b>A. We were evaluating grain-based models in</b><br/> 13 <b>2008 and 2009.</b><br/> 14 Q. But not before that, correct?<br/> 15 <b>A. Not before that.</b><br/> 16 MR. CAMPBELL: All right. I have no<br/> 17 further questions.<br/> 18 Katie?<br/> 19 MS. CLAIR: No. No further questions.<br/> 20 MR. CAMPBELL: John or Sharon, do you have<br/> 21 any questions?<br/> 22 MR. MONICA: Nothing from John.<br/> 23 MS. MARKOWITZ: No.<br/> 24 MR. CAMPBELL: Thank you all.<br/> 25 THE VIDEOGRAPHER: Going off the record at</p> |
| <p style="text-align: right;">183</p> <p>1 -- asked if Kraft purchased 100 percent<br/> 2 of its products during the contract period from<br/> 3 Rose Acre. Do you remember that?<br/> 4 <b>A. Yes.</b><br/> 5 MS. CLAIR: Objection, misstates prior<br/> 6 testimony.<br/> 7 BY MR. CAMPBELL:<br/> 8 Q. Is that correct? Did Kraft purchase all<br/> 9 of its products from Rose Acre during that period<br/> 10 or are only those products for those plants<br/> 11 identified in Exhibit A?<br/> 12 <b>A. Only those products from those plants.</b><br/> 13 Q. I show you what has been marked -- what<br/> 14 was marked as Manion Deposition Exhibit 14, which<br/> 15 is a contract dated July 1, 2007, between Kraft<br/> 16 and Michael Foods.<br/> 17 And if you'll turn to the Bates page<br/> 18 ending in 49, and look at the pricing -- the<br/> 19 paragraph entitled "Price." Do you see that?<br/> 20 <b>A. Yes.</b><br/> 21 Q. And do you recall that defendant's<br/> 22 counsel asked you whether or not your contract<br/> 23 with Rose Acre at a certain point in time was<br/> 24 based upon the Urner Barry certified market index?<br/> 25 <b>A. Yes.</b></p> | <p style="text-align: right;">185</p> <p>1 2:47 p.m. This concludes the videotaped<br/> 2 deposition of Mr. Manion.<br/> 3 (Whereupon proceedings were<br/> 4 adjourned.)<br/> 5<br/> 6<br/> 7<br/> 8<br/> 9<br/> 10<br/> 11<br/> 12<br/> 13<br/> 14<br/> 15<br/> 16<br/> 17<br/> 18<br/> 19<br/> 20<br/> 21<br/> 22<br/> 23<br/> 24<br/> 25</p>   |

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| <p style="text-align: right;">186</p> <p>1       ACKNOWLEDGMENT OF DEPONENT</p> <p>2</p> <p>3       I, _____, do hereby</p> <p>4       acknowledge that I have read and examined the</p> <p>5       foregoing testimony, and the same is a true, correct</p> <p>6       and complete transcription of the testimony given by</p> <p>7       me, and any corrections appear on the attached Errata</p> <p>8       Sheet signed by me.</p> <p>9</p> <p>10</p> <p>11</p> <p>12       _____<br/>(DATE)               (SIGNATURE)</p> <p>13</p> <p>14</p> <p>15</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p>   | <p style="text-align: right;">188</p> <p>1       foregoing deposition was not waived by counsel for</p> <p>2       the respective parties.</p> <p>3       I further certify that the taking of this</p> <p>4       deposition was pursuant to Notice, and that there</p> <p>5       were present at the deposition the attorneys</p> <p>6       hereinbefore mentioned.</p> <p>7       I further certify that I am not counsel for</p> <p>8       nor in any way related to the parties to this</p> <p>9       suit, nor am I in any way interested in the</p> <p>10      outcome thereof.</p> <p>11      IN TESTIMONY WHEREOF: I have hereunto set my</p> <p>12      hand and affixed my notarial seal this 10th day of</p> <p>13      April, 2014.</p> <p>14</p> <p>15</p> <p>16</p> <p>17</p> <p>18      _____<br/>Notary Public, Cook County, Illinois</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p> |
| <p style="text-align: right;">187</p> <p>1       STATE OF ILLINOIS )</p> <p>2       )   SS:</p> <p>3       COUNTY OF C O O K )</p> <p>4       I, Deralyn Gordon, a notary public within and</p> <p>5       for the County of Cook and State of Illinois, do</p> <p>6       hereby certify that heretofore, to-wit, on the 2nd</p> <p>7       of April, 2014, personally appeared before me at</p> <p>8       353 North Clark Street, Chicago, Illinois,</p> <p>9       KRAFT FOODS GLOBAL, INC., by and through</p> <p>10      Scott Martin Manion, in a cause now pending and</p> <p>11      undetermined in the United States District Court</p> <p>12      for the Eastern District of Pennsylvania,</p> <p>13      In Re: Processed Egg Products Antitrust</p> <p>14      Litigation.</p> <p>15      I further certify that the said witness</p> <p>16      was first duly sworn to testify the truth, the</p> <p>17      whole truth and nothing but the truth in the cause</p> <p>18      aforesaid; that the testimony then given by said</p> <p>19      witness was reported stenographically by me in the</p> <p>20      presence of the said witness, and afterwards</p> <p>21      reduced to typewriting by Computer-Aided</p> <p>22      Transcription, and the foregoing is a true and</p> <p>23      correct transcript of the testimony so given by</p> <p>24      said witness as aforesaid.</p> <p>25      I further certify that the signature to the</p> |  |

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